28th Congress, 1st Session. Rep. No. 457. Ho. of Reps.

ISSUE OF SCRIP, &c.

[To accompany bill H. R. No. 353.]

MAY 2, 1844.

Mr. HUBARD, from the Committee on Public Lands, made the following

REPORT:

The Committee on Public Lands, to whom the following resolutions were referred—the first on the 4th of January, and the second on the 25th of March, 1844, viz:

1st. "*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of reviving the law authorizing the issue of scrip upon Virginia land warrants, and of authorizing the reception of such scrip, and all other scrip issued by the United States in lieu of, or in payment for, land or land claims, to be received in payment for lands subject to private entry in all land offices in the United States."

2d. "*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of making an appropriation for the payment of Virginia revolutionary land bounty warrants, which have been issued, and are still due, to revolutionary soldiers and officers, or their heirs."

submit the following report:

That in the investigation of the subject referred to in the foregoing resolutions—adopted on the motion of Hon. G. M. Bower, of Missouri, in the first instance, and on the motion of Hon. D. M. Barringer, of North Carolina, in the second place—the attention of the committee was particularly called to report No. 436, 1st session of the 26th Congress; and to report No. 1063, 2d session of the 27th Congress. The first report alluded to, emanated from the Committee on Revolutionary Claims; and the second, from a select committee; both of which, however, were introduced into the House of Representatives by Hon. H. Hall, of Vermont.

As the subject now to be considered has been several times reported upon by committees of the House of Representatives, it is deemed proper to examine those reports, with the view of ascertaining the various points of difficulty, as well as their relative merits, so that a full and fair statement of the case may be presented. The importance of the subject, no less than the *manner* in which it has been discussed, demands a frank and candid review of some of the more prominent allegations urged in those reports against the justice and validity of the claims to bounty land remaining unsatisfied. Equally obnoxious to just criticism is their concluding recommendation, based, as will hereafter be shown, upon the most extravagant assumptions, and suggesting to this Government, under such circumstances, to disregard its positive stipulations. Those reports, after urging various *conjectural* estimates about the *number* of persons who might be entitled to

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bounty lands, so as to arrive at the least possible number; then by scanning and *denouncing* in the most extravagant terms a *given* number of claims which *had* been allowed;—thus, by *such* a combined method of magnifying the proportion of bad claims, and diminishing the number of those which were at any time due, they endeavored to dissuade Congress from doing justice. But, notwithstanding previous committees have resorted to this double system of destroying the claims, yet, even in their *own* estimation, they had *failed* to demolish *all* of them. However, it seems they had, in their opinion, at least, so crippled and damaged them in the public estimation, that they could with impunity venture to suggest to Congress to give the "*coup de grace*" to all those claims which they deemed *impregnable* to their assaults.

Nor has the learned effort which has been made to impugn and invalidate the ancient limits and boundaries of Virginia, and her right to the immense northwestern territory which she ceded to the Federal Government, escaped observation. This topic, however irrelevant all enlightened statesmen must admit it to be, has, it seems, been introduced, along with other no less pertinent considerations, to disparage whatever of credit it has heretofore been conceded Virginia justly acquired by ceding to this Government her northwestern territory, and to that extent to impair the equitable rights of the claimants, and to justify Congress in refusing to comply with its stipulations entered into with Virginia at the time she made her deed of cession. In report No. 1063, 2d session of the 27th Congress, from pages 49 to 63, an elaborate effort is made, in the first place, to distort and curtail the ancient boundaries of Virginia, in the second, to show that she had no chartered or colonial rights; and in the third, no substantial or valid claim to the territory which she ceded to this Government. We propose, first, to examine the arguments of Mr. Hall upon each of the three points last mentioned, and shall take them up in the order in which they are stated. We are induced to take up the several objections urged in the reports alluded to, not in the order in which they are presented, but rather in their chronological order, because it enables us to present a more connected and intelligible view of the subject which has been referred to us. To appreciate more fully the bearing which it was designed the points just stated should have on the subject now to be considered, we will cite the proposition discussed in report No. 1063, page 43, which gave the author of the report a pretext for indulging in the course of argument we propose first to review. It was as follows: "*That the United States are under obligations to Virginia to satisfy the claims.*"

It seems to have been supposed, by the committee formerly having this subject under consideration, from the very great extent of learning devoted to this branch of their argument, as presented in their report, that, if they could divest Virginia of all tenable right and title to the territory which she ceded to this Government, her citizens would necessarily be deprived of one of their strongest reasons for appealing to the equity and liberality of Congress. But it will readily be perceived that any "*ex parte*" and laborious effort made by a committee of the House of Representatives to invalidate the just claim of Virginia to the land which she ceded, and thereby to detract from her dignity and character, imposes upon Congress the duty of "*audi alteram partem.*" Indeed, it is most obvious that, unless this is done, a decision cannot be impartial or just. After a full examina-

tion of this branch of the subject, having arrived at conclusions entirely the opposite of those expressed in the report under review, we proceed to advance the facts and reasons which have irresistibly led us to differ with Mr. Hall "*toto cœlo.*"

To determine the original limits of the country now called Virginia, it is necessary that we should go back to a period of history antecedent to even the discovery of this region. In this history, we shall find that the whole continent of North America fronting upon the Atlantic ocean, was called Virginia, long before any portion of that particular district that now bears this name had been discovered. The Spaniards, who had first discovered the southern part of this continent in 1512, had named it Florida, on account of the gay and beautiful appearance of the great variety of flowers they found flourishing there. But afterwards, in 1584, when the English also discovered it further to the northward, Queen Elizabeth was pleased to name the country Virginia, as a memorial that this happy discovery had been made in the reign of a virgin queen.—(See Hakluyt, vol. iii, page 246.)

By letters patent granted by Queen Elizabeth to Sir Walter Raleigh, which bear date March 26, 1584, she gave to him, and to his heirs and assigns, "free liberty to search for and find such barbarous lands, not possessed by any Christian people, as to him may seem good, and the same to occupy and enjoy forever." This grant was without any other definite limits. (Hakluyt, vol. iii, page 243; also Williamson's History of North Carolina, vol. i, page, 219.)

In pursuance of this grant, Sir Walter Raleigh fitted out a small squadron, under the command of Sir Richard Greenville, to take possession of his newly acquired and unbounded territory; and a small settlement was actually established, on the 25th of August, 1584, on Roanoke island, in the present State of North Carolina. This was the first settlement made by the English in Virginia, and the first British settlement established anywhere on the continent of North America.—(See Hakluyt, vol. iii, page 251.)

Owing to many causes, and after various adventures, which it would be unnecessary to mention here, this first settlement was abandoned by its founders in the year 1590; and we know nothing certainly of the fate of the unfortunate colonists who were then left there.—(See Smith's History of Virginia, vol. i, page 105.)

No other attempt to settle any colony in Virginia was made during the reign of Queen Elizabeth, who died in 1603, and was succeeded by King James the First. But in the year 1606, this prince issued his letters patent for that purpose, which letters bear date April 10, 1606. By these, he divided that portion of Virginia which stretches from 34° to 45° of northerly latitude, into two districts. In one of these districts, called the First or Southern Colony of Virginia, he authorized Sir Thomas Gates, and others, his associates, mostly resident in London, to plant a colony wherever they might choose, between 34° and 41° of north latitude; and he vested in them a right of property in the land, extending along the seacoast fifty statute miles, on each side of the place of their first plantation, and reaching into the interior 100 statute miles from the seacoast. The other of these districts, called the Second or Northern Colony of Virginia, he allotted for the settlement of Thomas Hanham, and others, his associates, mostly residents of Bristol, Exeter, and Plymouth. These he authorized to plant a colony, wherever they might choose, between 38° and 45° of north latitude, and he gave to them a territory of similar limits

and extent to that given to the first colony. He provided, however, that whichever plantation of the said two colonies should be last made, should not be within 100 miles of the other, that might be first established. One of these two colonies (the first) was soon distinguished as the London Company ; and the other (or second) was known as the Plymouth Company; but, in after time, these names were dropped, and the name of Virginia, which was at first applied to both the colonies, was retained by the southern colony only, while the northern colony was called New England.—(For a copy of this charter, see Stith's History of Virginia—appendix, No. 1.)

The London Company commenced its operations before the Plymouth Company. The former fitted out a small ship of 100 tons burden, and two barques, the command of which was given to Captain Christopher Newport, who sailed from Blackwall December 19, 1606, his first destination being Roanoke island, in quest of the unfortunate adventurers left there many years before. Newport had a very long passage, and before he reached his destination, his little fleet encountered a severe southern gale, the violence of which was such as to oblige them to scud before it under bare poles one whole night. This was fortunate; for, in running in for the land the next day, (April 26, 1607,) they luckily fell in with the capes of Chesapeake bay, and entered this great estuary. Pursuing their course along the southern shore of the bay, they came to the mouth of a noble river, called by the natives Powhatan, but which Captain Newport named James river, after his sovereign. Up this river they sailed about 40 miles from its mouth, in search of a proper place whereon to plant the intended colony. Such a place they at length found, in a peninsula on the northern side of the river, connected with the mainland by a narrow isthmus of naked sand, easily to be defended against any attack, let it come from what quarter it might. Here the adventurers landed on the 13th of May, 1607, and here they established their first habitation, to which they gave the name of "James City," in honor of King James I, the reigning monarch.—(See Smith's History of Virginia, vol. i, book iii, chap. i, page 149, &c.)

The facts stated above will enable us to determine, and with great accuracy, the limits of the grant made to the London Company, by their first charter of April 10, 1606. If a meridional line be drawn through James City, and extended each way to the distance of fifty statute miles from it; if parallels be drawn through the extremities of this meridian, and extended to the seacoast; if one hundred statute miles from thence be laid off upon each of these parallels; and if a straight line be drawn from the extremity of one of them so determined, to the extremity of the other, the diagram so to be constructed may be considered as a square, the base of which will be one hundred statute miles, and its area ten thousand square miles. Such a diagram, so constructed, will be delineated in precise accordance with all the calls of this charter of April 10, 1606.

We need but cast our eyes upon any map of this region to determine the ridiculous absurdity of confining the territory intended to be granted by such limits. The only apology that can be offered for such an act, is, that the charter was granted before the country to which it was designed to apply was discovered. More than one moiety of all the lands within the prescribed limits will be found covered by wide and deep water-courses. By these, the dry land will be found divided into many small necks, widening as you advance upwards, and separated from each other by streams, the width and depth of which were such as to render them often impassable,

and always dangerous; and the first plantation intended to be, and that long continued to be, the metropolis or chief place of the colony, will be found very near the western and most exposed frontier of the territory. Hence, every hope of the future prosperity, and even of the security and safety of the infant colony, required that the limits given to its territory should be speedily changed and enlarged.

This was not a matter of speculation. In the year 1608 the country had been explored in every direction, throughout its whole length and breadth, and far beyond either, by the celebrated Captain John Smith, whose wonderfully accurate description of it, given in his report, we still have. (See Smith's History of Virginia, vol. i, book 3, chapters 5 and 6, and the map.) Induced by this report, as well as by many defects experience had proved to exist in the form of government for the colony that had been prescribed by their charter, the London Company applied to the King to alter this charter; and it pleased his Majesty, King James the First, to grant their petition. Accordingly, on the 23d of May, 1609, he issued new letters patent of that date, for this purpose. At the date of these new letters patent, nothing existed to prevent such an extension of the limits of Virginia as was thereby made, because no settlement had then been made anywhere by the Plymouth Company; so that the whole country granted was as open to the new grant, as it had been in 1606.

Before this second charter was granted to the London Company, the well-known headland on the northern side of James river, at its mouth, had been discovered and called by the name it still bears—Point Comfort. Taking this well known and well-established position as a starting point, the new charter granted to the company "all those lands, &c. situate, lying, and being in that part of America called Virginia, from the point of land called Cape or Point Comfort, all along the seacoast, to the northward, two hundred miles; and from the said point of Cape Comfort, all along the seacoast, to the southward, two hundred miles; and all that space and circuit of land lying from the seacoast of the precinct aforesaid, up into the land, throughout from sea to sea, west and northwest; and also all the islands lying within one hundred miles along the coast of both seas of the precinct aforesaid."—(See a copy of this second charter in Stith's History of Virginia, appendix No. 2, page 8, &c.)

As one of the purposes of this second charter is declared in it to be "to grant a further enlargement and explanation of the former grant" of 1606; and as no other change is made in the mode of determining the new and enlarged limits, from that required for determining the old boundaries, except that the precise point of Cape Comfort is substituted for James City, we are bound to adopt the same mode of determining the new limits, which had been adopted and approved in the former case.

Therefore, if a meridional line be drawn through the point of Cape Comfort, and extended each way to the distance of two hundred miles from thence; if parallels be drawn through the extremities of this meridian, and extended from sea to sea, (*i. e.* from the Atlantic to the South sea, or Pacific,) the diagram so to be constructed may be considered as a parallelogram. The base of this parallelogram will be the seacoast of the Atlantic, having a meridional length of four hundred miles, bisected by the parallel of the point of Cape Comfort, and the altitude of this parallelogram will be the distance from sea to sea.

If any one is curious to know why Virginia was extended precisely two

hundred miles to the north of the parallel of the point of Cape Comfort, his curiosity will be satisfied if he will take the trouble to calculate the difference of latitude between that parallel and the more northern parallel of 40°. In making this calculation, he must make some small allowance, however, for the trifling error caused by the imperfection of the clumsy instruments used in 1609 for making observations of latitude; as well as for the erroneous opinion then entertained as to the length of a degree of a great circle in English statute miles. We know now the exact quantity of each of these errors in our case; but it must be recollected that one of them (the last) puzzled Sir Isaac Newton almost a century after 1609, and delayed the publication, because (owing to this error) he could not demonstrate the truth of the greatest of his astronomical theories. Correcting his calculations in this way, the curious inquirer will so discover that two hundred English statute miles, measured along a meridian from the parallel of the point of Cape Comfort, will carry him to the parallel of 40° north latitude; which last parallel, as will be shown hereafter, was then made the common boundary between the two great districts of Virginia and New England.

The distance from Point Comfort north being determined in this way, there was no possible objection to adding an equal distance from the same point south; for in that direction no grant had then been made, which, by any possibility, could interfere with the extension of Virginia. Thus the new boundaries given to Virginia by the charter of May 23, 1609, were, in fact, these: On the north, the parallel of 40°; on the south, the parallel of 34°; on the east, the Atlantic ocean, between these parallels; and on the west, the Pacific ocean, between the same parallels.

These wide limits were very much contracted in after time, in many different ways: 1st. By the grant of Maryland to Cœcilus Calvert, baron of Baltimore in Ireland, made by Charles the First, on the 20th of June, 1632. 2d. By the grant of North Carolina to the Earl of Clarendon and others, proprietaries of that province, made by Charles the Second, June 30, 1665. 3d. By the grant of Pennsylvania to William Penn, made by Charles the Second, March 4, 1681. 4th. By the treaty made between Great Britain and France, (commonly called the treaty of Paris, because it was concluded at Paris,) on the 10th day of February, 1763; and, 5th. By the constitution of Virginia herself, adopted June 29, 1776. Deduct from the area of the parallelogram before mentioned the several territories carved out of it by the various acts to which we have referred above, and the remainder of this area will represent what Virginia was on the 4th day of July, 1776—when she too, like the other colonies, became a free, sovereign, and independent State.

Having shown that the description of the boundary given to Virginia by her second charter, in 1609, was neither indefinite nor unintelligible, as this report asserts, and has attempted to prove under its first head, we will now examine the second proposition. In this, the author seems to have changed his opinion upon the subject; because he here attempts to show that the boundary called for by this charter is quite definite and intelligible, being the arc of a circle. The centre, radius, and chord of this arc he states very plainly; but with what truth, it will be our present purpose to examine.

Not being able even to imagine a reason which could have induced the grantor of this charter to establish a confined circular boundary as that of the new colony, then very recently settled in Virginia,—this, too, when

the year before only, (in 1608,) the same King had granted to Sir Robert Heath that immense territory, comprehending six degrees of latitude in breadth, and extending in length along one side of Virginia, from the Atlantic to the South sea; and had granted a few years afterwards, (in 1620,) to the Duke of Lenox and others, another vast territory on the other side of Virginia, including eight degrees of latitude in breadth, and extending in length from sea to sea,—the committee apprehended that they might have mistaken the purport of this report. To ascertain whether this had been done, it has been carefully re-examined.

This second examination not only sustained the first impression as to the meaning of the report, but also that, if the report was right, such a "circular boundary" was not uncommon "in ancient charters of the Crown;" that, in this case, it was "precisely that described in this charter;" and that it was the only boundary which could give "force and meaning to every word of the grant," and answer every object which could have been in contemplation of "either the Crown or the grantees."

On examination, we discovered that all these declarations, so positively announced, had no other foundation than the ignorant or wilful perversion of the meaning of a plain and well understood English word.

It is obvious that the author of this report has confounded the meanings of the word *circuit* and *circle;* and as the former of these words is used in this charter, he is so led to his conclusion that the boundary it denotes must be circular!!! *Tantæne animis cœlestibus iræ?*

That there may be no doubt of this, read his own words: "It is an established rule of construction, that every word should be allowed a meaning, and to have been used for some assignable purpose. The Virginia construction seems to be in opposition to the word *circuit* used in the description, which appears to have no application to a territory extending between direct and straight lines, from the Atlantic to the Pacific ocean. For the description of such a territory, the word *space* would have been proper and sufficient; but the words *space* and *circuit*, in connexion, seem wholly inappropriate. To give force and effect to the word *circuit*, some other construction must be sought." This other construction he afterwards gives thus: "If Cape Comfort be taken as the centre of the arc of a circle to be extended from, &c., it will be found that the general direction of the line of the circle as, &c., the territory thus included will be precisely that described in the charter, viz: all that space and *circuit* of land lying, &c.," and he afterwards cites "the northern boundary of Delaware, as arising out of the description in *an ancient charter of the Crown*," (*!!!*) and as an example to show "that a circular boundary (for Virginia) is not an improbable one." Therefore there can be no doubt that it was the misapprehension of the true meaning of this word "circuit," which induced this author to commit so many mistakes as he has here exposed.

It is not very probable that any English scholar would have committed such a blunder; or that any English lawyer could have fallen into such a mistake; or that any geometrician, with this charter before his eyes, could have been betrayed into errors so flagrant.

The signification of the word *circuit*, is any space or extent that may be measured by travelling about it, whether the space be circular, elliptical, triangular, square, or polyhedral. In this sense it is always used by the English lawyers when they speak of the circuits of their judges; and in the same sense it is used in common parlance every day, as the author of

this report may readily discover, if he will but propose to any of his fellow-citizens to take a walk, and in it to make a *circuit* of any *square* in the city of Washington.

Before, at, and long after, the date of this charter, the word "circuit" was often used in English grants of land; and when so used, it was employed in the sense we have given above. In this sense it is very nearly, if not precisely, equivalent to the word "*precinct*," that will be found connected with it, generally, in all such instruments. In illustration of this, several grants of land in Virginia, bearing date between the years 1623 and 1640, may be cited. In each of them, after describing the boundaries of the land designed to be given, the patent conveys all the land "within the space and circuit aforesaid;" and in granting the franchises and privileges appurtenant to the land, such as the rights of fishing, hunting, hawking, fowling, &c. &c., the patent uses the terms "within the precinct aforesaid." Yet the land conveyed by each of these grants is a true rectangular parallelogram, having the length of a statute mile, and a base or breadth of fifty poles.

Had the learned author of this report been better acquainted with the English language, as it was used and understood, both in England and Virginia, from the reign of Queen Elizabeth to the restoration of Charles the Second, it is probable that he would not have committed such a mistake as has been stated. If he had remembered the numerous synonymes always used in every English grant, whether it be the old charter of feoffment, the more modern deed of bargain and sale, or even this charter—in which may be found the words "lands, countries, territories, soils, grounds," &c. &c., all used to signify the same thing—he would not, it is supposed, have required that a different meaning should be given to each of these, nor have desired that a specific reason should be assigned for employing such mere formal tautologous terms in an old English grant. And if he had read the early history of Delaware with more care, he would not, assuredly, have cited the case of her northern boundary, the result of a compromise, made in 1680, between the several claimants of that small space, either as a case "arising out of a description in an ancient charter of the Crown," or as furnishing any evidence to prove even the probability that King James the First designed to give a complete circular boundary to Virginia, by his charter of 1609. But, having misunderstood the meaning of the word "circuit," and confounded it with that of "circle," he was so induced to adopt the fanciful notion of a circular boundary for Virginia; and then he was obliged to find, or to invent, some reason to prove at least the plausibility of such a theory. In doing this, he was compelled to disregard totally many of the most significant calls of the charter, and to plunge into many absurdities, as will be shown.

One of the most important requirements of this charter, as in all the other grants to which we have formerly referred, is, that the territory granted should extend "from sea to sea;" the meaning of which terms has been already shown. But the South sea would not be reached anywhere between the parallels mentioned, by any arc of a circle drawn with a radius of 200 miles, and having Cape Comfort as a centre.

To avoid this insurmountable objection, the author says, "that it was the belief at that time, in England, that the South sea was but some short distance from the Atlantic." This is true; but it is equally true that, at the date of this charter, it was *known* in England that this short distance ex

ceeded 200 miles, as certainly as that London was not within 200 miles of the Mediterranean. In 1586, Sir Ralph Lane had ascended the Moratoc, now called the Roanoke, to a greater distance than 200 miles from the Atlantic. Captain Newport had afterwards ascended James river above its falls; and, in 1608, Captain John Smith had ascended the Rappahannock, Potomac, and Susquehannah, to the rapids of these rivers, respectively. None of these explorers had either seen or heard of the South sea, in either of these regions; although to discover it was the chief object of these several expeditions. Nay, the volume of fresh water pouring over these rapids, and the velocity of its current, assured these adventurers of the truth of the traditions they heard—that each of these great rivers descended from a distant elevated region; and that such streams could not have communicated with the salt sea anywhere. So that, whatever may have been the belief as to the distance between the two seas, it was certainly *known*, in 1609, that this distance must exceed 200 miles.

But if the learned author of this report was permitted to assume the distance from sea to sea to be what he pleases, he would still not be able to reconcile his fanciful circular boundary with the calls of this charter. If the assumed distance was more than two hundred miles, his boundary would never reach the South sea, although the charter requires the granted territory to extend to that sea. If this distance was less than two hundred miles, his fancied boundary would resemble anything else more than any arc of any circle, inasmuch as it would then become a quadrilateral figure, having the two seas on the east and west, and two segments on the north and south, respectively. And if this distance was two hundred miles exactly, his imagined arc would touch the coast of the South sea in a single mathematical point only, when he would find it impossible to give effect to that grant in the charter which conveys to the grantees "all the islands lying within one hundred miles, along the coast of *both* seas of the precinct aforesaid," unless he can conceive that a point and precinct are equivalent terms; so that, *quacumque via data*, no arc of any circle could satisfy the calls of this charter, given in its description of the intended boundary.

The learned author of this report seems to be as indifferent to the impossibility of the truth of some of his geographical assertions, and to the mathematical absurdities they would involve, if they were true, as to the calls of the charter. Thus, he says, "the cape (Cape Comfort) was accordingly made the centre of the coast line, which the new charter extended from one hundred to four hundred miles in length." Now, admitting the terms "the centre of the coast line" to have some signification, (although a mathematician would be puzzled to determine what point could be properly called the centre of a straight line,) no one can conceive that such a point, even if it can be imagined to exist, could be found *out of the line* of which it is called the centre. And as Cape Comfort is not upon the seacoast, but is distant from it many miles, it is inconceivable that Cape Comfort could be made "the centre of the coast line," unless this author could transport Cape Comfort from the site it has occupied ever since Noah's flood, quite across Chesapeake bay and the peninsula beyond it, now called Northampton county.

Again, he says: "The starting-point in the description now under consideration is Cape Comfort. From this the territory is to extend along the coast two hundred miles to the northward, and two hundred miles to the southward;" and to get this "coast-line," as this author calls it, he takes

"Cape Comfort as the centre of the arc of a circle, to be extended from the extremity of one of the before-mentioned lines (of two hundred miles) through the interior to the other, and to the course of the coast." But if Cape Comfort be not on the coast, (and it is not, certainly, nor has it ever been supposed to be,) the arc of the circle required to be thus described *must* be an arc greater than a semicircle; and the coast line, which must be the cord of this arc, will not be a diameter. Every schoolboy can demonstrate, however, that the longest straight line that can be drawn within the periphery of any circle is a diameter: *ergo*, as the diameter of this supposed arc is demanded to be four hundred miles in length, its chord *must be less* than four hundred miles; so that the author demonstrates, himself, the impossibility of the truth of his own postulate.

The committee deem it unnecessary to review that portion of this report in which the author shows so clearly, as he says, that the true bearing of a precinct bounded by the arc of a circle, which arc is greater than a semicircle, and has a diameter running north and south, must be "west and northwest." *Davus sum, non Œdipus.* But every man of mere common sense must see, at a glance, that such a precinct will have all the bearings to be found on more than half the compass—that is to say, instead of being directed to two points only, it will be directed to more than sixteen points of the compass.

This newly invented theory of a circular boundary for Virginia has been thus extensively reviewed, because almost every argument urged upon this subject will apply with equal force to the next proposition brought forward in this report, and therefore need not be repeated.

Third.—Under this head, the author, abandoning his circular boundary for Virginia, although but just asserted so positively, contends that the true boundary given to her by her charter of 1609 is in the form of a triangle. Like old Polonius, he has seen it "backed like a weasel," yet "it is very like a whale."

If this triangle did not reach the South sea, it would not satisfy that call of the charter which requires the granted territory to extend "from sea to sea." If it extended further from the coast of the South sea, the boundary of the territory granted would not be triangular, but quadrilateral. If its apex reached the South sea exactly, the grant of the islands in both seas, hereinbefore referred to, could not be satisfied; and any mathematician would tell this author that, as the long side, or hypothenuse, of his triangle is required by him to run to the northwest from the southeast, the bearing of the country, or ocean, beyond this precinct must be neither west nor northwest, but due *southwest* from the space and circuit enclosed by the three sides of this triangle; that is to say, his triangular diagram is constructed as directly in opposition to the requirement of this charter as it could well be made.

The obvious cause of this new error is the mistake of the author in supposing that the terms "west and northwest" are used in the charter to denote the direction of two mathematical lines, which are so to run in order to form two limits of the granted territory—the remaining limit of which territory will be the Atlantic seacoast. But, if he will read the charter with more attention, he may discover that it does not require any such lines; that, instead of lines, it is the whole "space and circuit" of land previously described in the charter, which it directs to be extended from the seacoast of the Atlantic, "up into the land, *throughout* from sea

to sea;" and that the terms "west and northwest" refer to the bearing of the seacoast of one of these seas from the other. To satisfy this requirement, two lines, each of them extending 200 miles from the point of Cape Comfort, and running north and south, must be drawn. Through the opposite extremities of these two meridional lines, two parallels must be drawn and extended to the Atlantic seacoast. The precinct so formed must then be extended with that breadth further up into the land, throughout the whole continent, from the Atlantic to the Pacific ocean; which last was then well known to exist, and to bear west and (of course) northwest from the first, between these two parallels, although the distance between the two seas in this quarter was not then known. These boundaries will make an irregular parallelogram, such as has been described. They will satisfy every call, and answer all and each of the known objects of this charter; they are in exact accordance with the opinions expressed by every writer upon this subject, whether English or American, until this singular report was given to the world; they are in perfect harmony with every act done in relation to this territory, during a period of much more than 150 years following the date of this charter; and they well illustrate the known policy of the English Government in reference to this matter. To this, it may be added that there is no other conceivable boundary which can possibly produce such results.

It has been shown that, according to the requirements of her second charter, granted May 23, 1609, Virginia was bounded on the north by the parallel of 40° north latitude; on the south by the parallel of 34° north latitude; on the east by the Atlantic ocean, between these parallels; and on the west by the South sea, (now sometimes called the Pacific ocean,) between the same parallels.

This assertion, although in exact accordance with the opinion expressed by every author who has written upon the subject, has been questioned for the first time, in a report made to the House of Representatives, by one of its committees, on the 20th of August, 1842. It is proper, therefore, to examine the several arguments advanced, and suggestions put forth in this report, in relation to this matter.

No one can read this report without being struck with the glaring inconsistencies it exhibits. The object of its author is to show that the claim of Virginia to the limits above mentioned is not justified by the terms of the charter there stated. To attain this object, he contends—

First. That the description of boundaries given in this charter is so indefinite and unintelligible, as to leave it quite uncertain what these boundaries were intended to be, and whether they included any space.

Secondly. That the boundary assigned to Virginia by this charter is, by that instrument, well defined to be the arc of a circle, the centre, radius, and chord of which are plainly prescribed; and

Thirdly. That the boundary of Virginia, called for by this charter is, not curvilinear, but rectilinear, and is a veritable rectangular triangle.

The two last of these propositions are, obviously, not less contradictory of the first than they are of each other; yet both of them are said to be in accordance with the calls of the same grant. Such apparent inconsistencies would seem to prove that their author had very little confidence in the correctness of any of his propositions, the truth of each of which he so readily disproves by either or both of the others. In examining them, however, we will deal with him more fairly than he has done with his

subject. We will not attempt to overturn one asserted error by another; but we will investigate each of these propositions as though it stood alone.

First. The author of this report commences his argument by quoting so much of the charter of 1609 as he thought useful; and having done so, he very gravely assumes that "it must be admitted that this description (of the boundary) is not very definite or very clearly intelligible." But, aware that such a modest *petitio principii* might not be granted, he immediately undertakes to prove it. This he does, by selecting particular phrases from his quotation, as evidences of a "description not very definite," or "very clearly intelligible."

The first of these selected passages, he finds in the phrase "from sea to sea." These words, he observes, "have been holden by Virginia to extend the territory from the Atlantic to the Pacific ocean, at that time called the South sea. But the South sea [and he might have added the Atlantic] is not named; and the inference that it [or either] was intended, if arrived at, can only be done from other words in the description." He remembers, however, to forget to state what these other words in the description are; and he has most studiously avoided to insert some of them in his quotation. Such disingenuousness may, perhaps, be pardoned in a lawyer, whose object is not truth, but victory. It does not well become a member of Congress, however, who is charged with the high duty of reporting to that body *all* the facts of a case, to the end that this body and the world may be enabled to form an impartial opinion of the merits. Under such circumstances, the *suppressio veri* is precisely equivalent to the *suggestio falsi*.

It would be very easy to prove the ambiguity, nay, the falsehood, of any instrument, however plain, precise, and true its language may be, if it was permitted to garble the language, by wresting a single phrase from its context, and to present this alone as the assertion of an independent and substantive proposition. No inquirer after truth has ever permitted himself to do so. In this instance, every one of the terms "from sea to sea" are quite intelligible to every understanding, and the supposed ambiguity consists only in determining the objects to which these plain words refer.

To determine this, no candid inquirer would have failed to remark that "to grant a further enlargement" of a known territory previously granted, was one of the declared objects of the charter of 1609. That this previously granted territory was declared to be "in that part of America called Virginia," a region long known to be situated on the seacoast of the Atlantic ocean, confined by the former grant to a space on the "seacoast," between the 34th and 41st degrees of northerly latitude from "the equinoctial line;" and that "Cape, or Point Comfort," mentioned in the enlarged grant, was a well-known spot in Virginia, situated within the territory formerly granted, near to, and in full view of, the Atlantic ocean. If these facts had been stated, as they ought to have been, he must have been skeptical indeed who could have doubted that the Atlantic ocean was *one* of the two seas referred to by the terms "from sea to sea;" and *one* of the two seas referred to in that part of the charter which grants "all the islands lying within one hundred miles along the coast of *both* seas of the precinct aforesaid." This being granted, even the geographical knowledge of this author, great as it may be, would have been severely taxed to point out any other than the South

sea, or Pacific ocean, which can be found, or was ever imagined to exist, between the parallels of 34° and 40° of north latitude, if you proceed "from the (Atlantic) seacoast of the precinct aforesaid, *up into the land*, throughout from sea to sea," no matter what course you may pursue.

But an impartial inquirer after truth would not have stopped even here. He would have remarked, also, that one of the great objects of the London Company, from its very origin, was the discovery of the South sea, as the certain and infallible way to immense riches; that by the instructions given by this company to their agents in Virginia, these agents were specially required and advised how they should proceed in prosecuting this discovery; and that it was the general belief in England, at that day, that the South sea, or Pacific ocean, was but a short distance from the Atlantic, opposite to the seacoast of the latter, within the precinct assigned to Virginia. Combining all these circumstances, it is confidently believed that not one intelligent mind can be found in the whole world, except the minds of those who prepared or approved this report, which can doubt that these intelligible words, "from sea to sea," refer to, and were intended to denote, the Atlantic and Pacific oceans; and that they cannot be so tortured as to be made to apply to any other than these two seas, if any regard is had to their context and the date at which they were used.

But if any *scintilla* of doubt in regard to this matter can remain, it must be removed by a reference to the early grants of other British colonies in America, a part of some of which were actually carved out of Virginia.

I. The second, or northern colony of Virginia, having done nothing effectual towards establishing any permanent settlement in America, under the original charter of 1606, King James I, on the 3d day of November, 1620, made a new grant to the Duke of Lenox, and others, his associates, who were styled in the letters patent the "grand council of Plymouth for planting and governing New England in America." By this grant, the King granted to them the territory "between the fortieth and forty-eighth degrees of north latitude, extending throughout the main land, *from sea to sea*." (See Chalmers's Annals, p. 97, &c.)

II. The grand council of Plymouth, created by this charter on the 19th of March, 1627, made a grant to Sir Henry Roswell, and others, "of all that part of New England which lies between three miles north of the Merrimack river, and three miles to the south of Charles river, extending *from the Atlantic to the South sea*." (See Neale's History of New England, vol. 1, p. 122.) This grant of the grand council of Plymouth was confirmed by King Charles I, on the 4th of March, 1628, who, by his charter of that date, incorporated the grantees by the name of "the Governor and Company of Massachusetts Bay, in New England." (See Hutchinson's Collection of Original Papers, p. 120.)

III. In 1630, the grand council of Plymouth granted Connecticut to the Earl of Warwick, who transferred his grant to Lord Say and Seal, and others. This grant conveyed "all that part of New England which extends from Narragansett river, one hundred and twenty miles on a straight line, near the shore, towards the southwest, as the coast lies towards Virginia, and within that breadth, *from the Atlantic ocean to the South sea*." This grant, too, was afterwards confirmed by King Charles I. (See Hutchinson, p. 44, &c.; and Neale, vol. 1, p. 147.)

IV. In the fifth year of the reign of James I, that monarch granted to Sir Robert Heath, his Attorney General, "all that part of America from the river St. Matthew, in thirty degrees of north latitude, to the river Passo Mago, in thirty-six degrees, and extending in longitude *from the Atlantic to the South sea.*" (See Williamson's History of North Carolina, vol. 1, p. 84.) This grant was made in 1608, before the second charter granted to the London Company, in 1609. But the conditions of the grant to Heath not being fulfilled, King Charles II, on the 24th of March, 1662–3, made a new grant to the Earl of Clarendon and others, "of all that province, territory, or tract of ground, called Carolina, situate, lying, and being within our dominions of America, extending from the north end of the island called Luke island, which lieth in the southern Virginia seas, and within thirty-six degrees of north latitude; and to the west as far as the *South seas;* and so respectively as far as the river of Matthias, which bordereth upon the coast of Florida, and within thirty-one degrees of northern latitude; and so west, in a direct line, as far as the *South seas aforesaid.*"

For reasons which need not be stated here, it pleased this monarch afterwards to enlarge this grant. By a new charter, bearing date June 30, 1665, he granted to the same proprietaries "all that province, territory, or tract of land, situate, lying, and being within our dominions of America aforesaid, extending north and eastward as far as the north end of Currituck river, or inlet, upon a straight westerly line, to Wyonock creek, which lies within or about the degree of thirty-six and thirty minutes northern latitude; and so west, in a direct line, as far as the *South seas;* and south and westward as far as the degree of twenty-nine, inclusive, of northern latitude; and so west, in a direct line, as far as the *South seas.*" (See Williamson's History, vol. 1, p. 230, &c.)

This grant, like that preceding it, cut off from Virginia all that portion of her former territory which was situated north of the parallel of thirty-four; and by the last grant above mentioned, the common boundary between the two colonies of Virginia and Carolina was declared to be the parallel of 36° 30′ north latitude, extended from the Atlantic ocean, here called "the southern Virginia seas," in a direct line, as far as the South seas. Here it may properly be remarked, that this common boundary, so established at that time, has continued to be the common boundary dividing the territories of these two colonies from that day (June 30, 1665) to this.

About the commencement of the last century, when the settlement of each of these colonies, along their common boundary, had come into contact with each other, a difference arose between them. This difference involved no question as to what this common boundary was; but simply where the admitted boundary-line would pass, if extended west from the Atlantic ocean, in a direct line to the South seas, according to the calls of the Carolina grant. To determine this difference, Queen Anne, on the 1st of March, 1710, by an order in council of that date, directed that commissioners should be appointed by the Governor of Virginia, and by the lords proprietors of Carolina, respectively, for the purpose of running the dividing-line between the two provinces. Before any such commissioners were appointed by either of these parties, Governor Spotswood, on the part of Virginia, and Governor Eden, on the part of the lords proprietors of Carolina, agreed upon the terms according to which the existing contro-

versy might be settled, if these terms were approved by the Crown of England and the lords proprietors aforesaid. The terms proposed by the two Governors were submitted as suggested, and were approved by an order in council, made by King George I, on the 28th of May, 1727. In consequence of this, commissioners were appointed by the lords proprietors and by the King, (George II,) on the 14th of December, 1727, to run the dividing line according to the terms approved by both parties. These commissioners performed the duty assigned them, to the perfect satisfaction of their several constituents. During the year 1728 the dividing-line was run, according to the calls of the Carolina grant, from the seacoast to a point in the present county of Patrick, within sight of the Allegany mountains, a distance of two hundred and forty-one miles and two hundred and thirty poles—much more than a hundred miles beyond any settlement then made in either Carolina or Virginia. Here they were compelled to stop, by reason of the approach of winter and the failure of their provisions. (See the journal of Col. William Byrd, of Westover, one of these commissioners.)

To these examples more could be added, derived from the early grants of other British colonies in America; but those referred to above must suffice, as we think, to establish these propositions: that so early as the reign of King James I, the crown of England claimed, by right of first discovery and occupancy, all that part of the continent of North America situated between the 29th and 48th degrees of north latitude, stretching throughout this continent from sea to sea—*i. e.* from the Atlantic to the Pacific ocean, then known as the South sea. That all this region was divided, at first, into three colonies—the first, or most southern of these colonies, was extended along the seacoast of the Atlantic, between the degrees of 29 and 36 of north latitude; the middle colony was extended along the same seacoast, between the degrees of 36 and 40 of north latitude; the last, or most northward colony, was extended along the same seacoast, between the degrees of 40 and 48 of north latitude; and each and all of these three colonies stretched throughout the continent, between the named parallels, respectively, from sea to sea—*i. e.* from the Atlantic to the Pacific ocean, in order to cover the whole space claimed by the Crown.

That such was the opinion in regard to the middle colony, called Virginia, the first in which any permanent settlement was made by the English, appears from what is stated in the earliest history of Virginia that exists; for Smith's work, although so called, scarcely merits this title. The first chapter of the second book of Beverley's history is dedicated to a description "of the bounds and coast of Virginia," as they were understood and believed to be when he wrote—that is to say, about the year 1722, after the territory of this colony had been abridged by the proprietary grants of Maryland and Carolina. "Virginia thus considered," says Beverley, "is bounded on the south by North Carolina; on the north by Patowmeck river, which divides it from Maryland; on the east by the main ocean, called the Virginia seas; and on the west and northwest by the Californian sea, whenever the settlements shall be extended so far, or now by the river Mississippi."—(See Beverley's History of Virginia, p. 102.)

Whether Robert Beverley, long the Secretary of State of Virginia, an officer appointed by the Crown of England, writing his history in 1722, in London, where he had the freest access to the public archives there, or

the learned author of this report, written in 1842, merits the most confidence when they describe the ancient bounds of Virginia, is a question we willingly submit to the candid determination of an impartial world. *Non nostrùm tantas componere lites.*

After what has been urged, it is not deemed necessary to spend much time in examining the next passage selected by the author of this report, to prove that the description of the boundaries of Virginia, given in her charter of 1609, "is not very definite or very clearly intelligible." This passage he finds in the words "west and northwest."

Every lawyer knows that, when any grant calls for a natural object, to that object you must go, in running out the lines of the grant, notwithstanding it may not be found either in the direction or at the distance mentioned; and that no grant has ever been considered as either indefinite or unintelligible, because of the incongruity between the bearing given in the grant, and the true bearing of the natural object. Now, as the South sea is a well-known natural object, called for by this charter, it is of very little consequence whether this natural object is found north or south, east or west, from the point of departure. Besides, the author of this report is certainly in error when he understands the terms "west and northwest" as being used, in this charter, to denote the direction of a *line* to be extended between two points—one on the seacoast of the Atlantic, and the other to be found somewhere in that direction, on the seacoast of the South sea. If this charter is examined as it ought to be, it will be seen that it is not a mere *line*, but "all that space and circuit of land lying from the seacoast of the precinct aforesaid," which is required to run "up into the land, throughout from sea to sea, west and northwest."

The geometrical truth and certainty of these words "west and northwest" could be demonstrated, when applied (as they are applied in this charter) to denote the relative bearing of two such long lines of seacoast on the Atlantic and Pacific oceans. But it is deemed sufficient to state upon this subject, that this apparent inconsistency results from that projection of the sphere, according to which all degrees of longitude must diminish, in their terrestrial length, as you proceed from the equator to either of the poles. The effect of this is, as every navigator knows well, that every meridian in the northern hemisphere, distant from any other given meridian in the same hemisphere, either towards the east or west, must necessarily bear from the given meridian, both east and northeast, west and northwest, as the case may be. That this was really the construction of her charter for which Virginia contended, is not matter of conjecture or of tradition. In the negotiation between Virginia and Pennsylvania for the adjustment of the boundary-lines between the two States, which took place in 1779, the commissioners on the part of Pennsylvania suggested that the claim of Pennsylvania, which they insisted on, appeared to them the more reasonable, "as it was probable that it would not interfere with the boundaries of Virginia, as described in her charter of the 23d of May, 1609, when they should be determined according to the tenor of the same." To which the commissioners of Virginia answered: "What you suggest to strengthen the reasonableness of the claim of Pennsylvania, from the probability that it will not interfere with the boundaries of Virginia, as described in its charter of May 23, 1609, appears to us to have no weight. The northern boundary of Virginia, as described in that charter, beginning on the seacoast 200 miles northwest from Cape or Point Comfort, and run-

ning west and northwest, up into the land, throughout from sea to sea. *Such a northern boundary*, which is truly deduced from the quoted charter, will cross the Delaware above Newcastle, and, passing through the State of Pennsylvania with a *west-northwest* course, will emerge about the beginning of the 42d degree of north latitude; from all which, it is evident how much the claim of Pennsylvania interferes with the boundaries as described in the charter of the 23d of May, 1609." This quotation is made, to show that the northern boundary-line which Virginia claimed under her charter was a *west-northwest* line, from the northern extremity of her sea-coast line; and it is remarkable that the commissioners of Pennsylvania never afterwards touched that topic.—(See Hening's Statutes at Large, vol. 10, pages 519, 523, 527, and 537.)

Having thus made good our original proposition, and relieved it from every objection urged against it by this author, the committee decline urging anything further concerning the ancient boundaries of Virginia given by the charter of May 23, 1609. The propriety of this course will not be questioned, since the report under consideration itself announces to the world that "the committee do not deem the question of the construction of the charter in regard to *boundaries* of any great importance, because they think the State of Virginia has no right to claim under it." What justification that committee may have to offer to their constituents and to the world for wasting so much of the public time in the examination and discussion of a question which the committee itself declares not to be of any great importance, it is not for us to determine, differing with that committee in the opinion so expressed; yet it would ill become us to follow the example set, and to extend our investigation *further* than they have done, or to treat gravely any question after they have abandoned it by announcing it to be of no consequence.

The reason assigned by the committee for not deeming the question of the construction of the charter in regard to boundaries of any importance, is, "because they think the State of Virginia has no right to *claim* under it." In support of this opinion, the committee urge many arguments, each of which we will now examine:

The first of these arguments rests upon the assertion of a fact, (which fact no one ever has or can deny,) that all the charters granted to the London Company (of which there were three) were cancelled by a judgment of the Court of King's Bench, pronounced in a case of *quo warranto* depending in that court at its Trinity term, in the year 1624. From this admitted fact, the committee deduce their conclusion that the State of Virginia has no right to claim under such revoked charters.

Throughout this whole report, in reasoning upon the several subjects he presents, its author employs terms so general and comprehensive, that it is difficult to determine the precise object to which he intends to refer. The present is an apt example to illustrate this. What does he mean by "the State of Virginia?" If he means (what his words seem to denote) that self-created body politic and corporate which, in 1776, proclaimed itself a free, sovereign, and independent State, and then chose to take upon itself the name of "the Commonwealth of Virginia," he asserts but a necessary truism, requiring no argument to prove it. Such a sovereign body, self-created and self-sustained, could never stoop to claim anything *under* the mere concessions or grants of any human being. The foundation of her claims must not be sought for in parchment rolls of any kind.

It exists and can be found nowhere but in the stout hearts and strong arms of her subjects, whose eyes ever beam with delight when they willingly and sincerely call upon their Creator to witness their vow that they will be faithful and true to her. Strip her of this allegiance, by any means, and she becomes extinct—at once incapable alike of claiming or of holding anything. Virginia, as a region, must have a local designation and a name, both of which, of necessity, must have been bestowed upon it by others; but, as a free and sovereign State, she exists only in the hearts of her own subjects. They created her, they have maintained her, and, with the blessing of God, they alone can preserve her.

Even if the charter incorporating the London Company had never been annulled by the judgment of any court, it would be very absurd to suppose that Virginia, as a State, could claim anything *under* it. The very assertion of her sovereignty, when proclaimed by herself, would have revoked this charter. In virtue of that eminent domain which every sovereign must possess, all the lands within every country must be held by, of, or *under* its sovereign; and it would be ridiculous for this sovereign to claim anything *under* a subject, who at that instant must have claimed the same thing *under* him. It is in virtue of this sovereign right that all escheats and forfeitures are claimed; and it is in virtue of the same right that the payment of all taxes, and the performance of every other servitude necessary to the preservation of the sovereignty—such as militia service, &c. &c.—may be, and are, lawfully required.

Therefore it is that the "Commonwealth of Virginia" never could have claimed (as it is certain that she never has claimed) any one element of her sovereignty *under* the concession or grant of any human being. She scorns to deduce it from the treaty of 1783, which every American (with the exception of one man) has ever considered, not as a grant, but as a recognition of pre existing rights; and the era of her independence dates not from 1783, but from 1776; as the years of the colony did not begin with the 13th of May, the date of the first settlement, but with the 26th of October, 1607, when the discovery of Virginia was made.

But the author of this report may not mean "the State of Virginia;" by these words, he may intend, perhaps, to designate the people of Virginia, such as they were before they proclaimed themselves a sovereign State. If this be his meaning, he still errs in asserting that these colonists had no right to claim anything under the charters, after the revocation of these charters in 1624.

He who asserts such an opinion can know but little of the English constitution, as it was understood to be in 1624, or of what must have been the condition of all English colonists, under that constitution, but for their charters; nor can he understand much better the well-settled doctrines of the common law, if he asserts that the revocation of any charter can disturb the vested rights of third persons, lawfully acquired under such an instrument, while it was acknowledged to be valid and obligatory. Happily, we have so seldom any occasion to refer to such doctrines now, that many sciolists regard them as antiquated and obsolete. Hence, the committee must be excused for employing some time in vindicating our forefathers, and in explaining why they considered a charter as the sure foundation of all their rights, and as the palladium of their liberties; and why, until 1776, they always referred to their charters (although revoked by the grantor) as an ever-enduring guaranty to them and their posterity

of their rights to life, liberty, and property; and as sanctifying resistance, whenever it should be necessary to resort to it, to defend these rights against lawless power and unauthorized oppression.

According to the theory of the English constitution, as it was understood in the reign of James the First, the King was a sovereign as absolute as any monarch who ever sat upon a throne, whether in ancient or modern days. Such absolute authority was first acquired by conquest; and, being transmitted through many centuries, it devolved at last upon this King, who uniting in his person every formerly disputed claim to the English crown, his parasites found little difficulty in convincing him that the power was his *jure divino*.

But, absolute and sacred as was the authority of the King, according to the theory of the constitution, the exercise of such authority was checked and restrained by very many circumstances. These, in their origin, had no relation whatever to the actual government; but, co-existing with, and respected by it, during many generations, they had exerted a benignant and insensible influence upon it for so long a time, that, when combined, they served as a strong rampart around the privileges of the subjects, by which they were secured against the prerogatives of the Crown. Thus, the English Government, although in its theory as absolute as any upon earth, in its practice and effects was the freest then known to man.

Nor was this freedom less secure because these efficacious checks and potent restraints upon the practical exercise of absolute power were neither engrossed on parchment nor engraved on brass. They were deeply written on the hearts of a brave people, endeared to their affections, not less by the fact that they had come down to them from a line so remote that the memory of man ran not to the contrary, than by the benign influence they had ever exerted. Casuistry could never diminish this influence by construction; and it readily accommodated itself to all circumstances, when and as they arose. It walked with the monarch as a loyal and faithful liege, bearing a sharp sword, to be wielded by a strong arm, whenever it was unsheathed in defence of right; but acting as a magician's wand, and paralyzing his every faculty to do wrong.

But all these potent restraints upon the exercise of theoretic absolute power were peculiar to England. All the circumstances by which they were created and preserved were of English origin and of English growth. They existed not in the sister kingdom of Scotland, although then governed by the same King; nor were they known in the neighboring realm of Ireland. English customs were the guaranties of the rights of Englishmen, and the freedom they assured was English liberty. It existed at that day in no other region on earth than England; and would have perished if transplanted elsewhere, unless some means had been devised to preserve the exotic in a new climate and foreign soil.

In the reign of Queen Elizabeth, the scheme of colonizing parts of America was conceived by that sagacious monarch; but she and all her wise counsellors knew well that the execution of such a scheme would prove to be but a vain attempt, unless some plan could be adopted by means of which the privileges of Englishmen might be continued and secured to them when they removed to a remote and foreign land. Therefore, in the first grant made by Queen Elizabeth to Sir Humphrey Gilbert, bearing date June 11, 1578, she declared to him, "his heirs, and assigns, and to every other person and persons, and to their and every of

their heirs, that they, and every of them that should be thereafter inhabiting in the said lands, countries, and territories, should and might have and enjoy all privileges of free denizens, or persons native of England; any law, custom, or usage to the contrary notwithstanding."—(See Stith's History of Virginia, page 5.) The same declaration was repeated, but in stronger terms, by King James the First, in the 15th clause of his first charter, dated April 10, 1606, and renewed in the 22d article of his second charter to the London Company, dated May 23, 1609.—(See Stith, Appendix, pages 6 and 20.) To which the committee may add, that the same convenant, in some form or other, exists in every charter for the purpose of colonization, granted by the Crown of England from that day to this.

Such a solemn covenant, so concluded between a sovereign and his subjects, after being fully executed on their parts, can never be revoked on his. Destroy the evidence of the promise made, if you please, and by any means you please; the destruction of the parchment can never disturb the rights acquired under it. Neither the judgment of a court, or of any other earthly tribunal, can ever nullify that holy covenant, which, being executed by one party, thereby becomes enregistered, as obligatory upon the other, in that sacred record that man never keeps or can falsify. Therefore, the committee can safely appeal to every statesman, moralist, or jurist, on earth, not being members of this committee, to say, whether they were not as free denizens of England, after the cancelling of these charters, as they had been before. And, in the same name, we protest against the new doctrine advanced, for the first time, by the author of this report—that our ancestors were the villein serfs of any despot master, or other than free denizens, natives of England, who, even after the revocation of the charters, might walk through the unexplored forests of Virginia, with the like security their English brethren enjoyed as they strolled over the vale of Runnymede, or through the thronged streets of London. The genius of English liberty, evoked by this ever-enduring covenant, accompanied them whithersoever they might go in Virginia, as a guardian angel, to whose charge was specially committed the preservation of all their English privileges. It is false, then, to say that the colonists of Virginia could claim nothing under the charters, after the revocation of these charters in 1624. They still claimed, and were still entitled to, all the privileges of free denizens of England. This, their claim, they deduced from their charters for a period of more than 150 years after 1624, during all which period their claim was very often recognised, and never doubted by any one.

But the author of this report may say, perhaps, that the subject of his examination was territory; that all his remarks, although expressed in such general terms, should be referred to that subject only; and that all he meant to say was, that neither the colonists nor the State of Virginia could claim any territory under the charters, after the revocation of these charters in 1624.

Even so qualified and explained, the assertion is still incorrect. A very large portion of that space included within the circuit of not less than twelve of our present counties, is still claimed and held under patents granted by the London Company during the legal existence of that corporation. And any lawyer will tell this author that titles so derived were as valid and sacred after the charters were annulled, as they had been be-

fore; and that they continue as valid at this day, as any titles derived under grants of the Crown before the Revolution, although such grants may be under the great seal of England, as the manner is, authenticated *per ipsum regem.*

Sixty years have now elapsed since Virginia ceded the territory northwest of the Ohio to the United States; sixty years since, her original right to the territory was, in effect, admitted by the United States, by the acknowlment of her right to impose conditions on the grant, and by the acceptance of the grant subject to those conditions. Of those conditions the United States have constantly recognised the obligation, and their duty to fulfil them, as a matter of solemn contract between the State of Virginia and the United States.

The constitution of the United States recognised and ratified this contract, article 6, clause 1. The United States claim and hold under the grant of Virginia. It is yet more the interest of the grantees than of the grantor to make good the title which Virginia ceded. These considerations, alone, should suffice, at this late day, to preclude any branch of the Federal Government from questioning the validity of the original right of Virginia to the territory.

Suppose the original claim of Virginia to the territory had no foundation in truth and justice; suppose the United States had title to it, independently of, and paramount to, the cession of it by Virginia: of what importance is it—what possible good purpose can it now answer—to contest, or to maintain, any such proposition? It is a very unhappy, and, in the effect, (though it may not be in the motive,) a very mischievous disposition, which preserves or revives the memory of every ancient feud, inflames anew every cause of civil dissension which the wisdom of our fathers extinguished, and rakes among the ashes of the dead for every subject of party quarrel, of which, if history has preserved a shadowy sketch of the grounds, time has destroyed every vestige of interest.

The apology for reviving this old controversy touching the original right of Virginia to the territory northwest of the Ohio, is found, it seems, in the vaunt made in the report adopted by the House of Delegates in 1834, of "the magnificent sacrifice" and "the generosity" of Virginia in making the cession of it to the United States—a vaunt, which good taste should have counselled the omission of; and had Mr. Hall been content with saying, in his report, that it was wholly immaterial to the subject then under consideration, (the propriety, namely, of making additional provision for the satisfaction of claims for military land bounties,) this committee would have agreed with him without the least reserve.

Allusion has been made in the report now under consideration to the probable intention of the English government, a few years before the Revolution, to erect new and separate colonies out of the western territory. But this policy was as likely to be applied to the western part of Georgia, South and North Carolina, Pennsylvania, and New York, as to that of Virginia.

But the design to form a new and separate colony west of the Alleganies, out of the territory of Virginia, as held or claimed under original charters, rested on the right claimed and exercised by the Crown, and to all practical purposes long acquiesced in, to dismember from the colonies, at its discretion, *any part of their acknowledged territory*, as had been done by the charters of Maryland, Pennsylvania, Carolina, New York, Maine, and New Hampshire. It certainly was not founded on any pretence that the new colony proposed to be formed west of the Alleganies would *not* take

away part of the territory which Virginia was entitled to under her charter of May, 1609. That territory was already formed into a county called West Augusta, and a considerable population was settled in it, represented in the House of Burgesses, and, in all respects, subject to the jurisdiction of Virginia. The very instruction* to the colonial government not to issue grants for lands on the western waters, was a virtual admission that the country was part of Virginia, of which, but for the prohibition, the colonial government might have continued to make grants. In fact, not a few formal grants (*patents*, as we call them) had been issued before the instruction was given; and much larger grants had been authorized *by order of council*, according to an ancient and frequent practice of the colonial government. In June, 1749, a tract of 800,000 acres of land in our trans-Allegany country, was granted by order of council to the *Loyal Company*, to which in June, 1753, further time was allowed to complete its surveys. In October, 1751, 100,000 acres were, in like manner, granted to the *Greenbrier Company*, (part of which lay beyond the Alleganies,) and many surveys were made by both companies, but their progress was arrested by the breaking out of the war of 1756, and the irruption of the Indians, which immediately ensued. After the peace of 1763, these two companies united in a petition to the Governor and Council, praying a renewal of their grants, and further time to complete their surveys. But the Governor and Council resolved that, the King having instructed the colonial government not to make grants of lands on the western waters, they were thereby restrained from granting the prayer of the petitioners. This was in May, 1763; and yet as late as 1769, 200,000 acres of land, all lying on our western waters, were granted to General Washington, and other provincial officers and soldiers in the war of 1756, (known as Braddock's war,) for military land bounties, promised by the proclamation of Governor Dinwiddie of Virginia, in 1754; and of these lands surveys were made, and formal patents issued from the land office of Virginia; and this under a royal proclamation of 1763, relaxing so far the prohibition against the grant of lands lying on the western waters. (See Revised Code of 1819, vol. 2, app. 2, pp. 347, 349.) Let it be remarked that the royal proclamations, the instructions to the Governor and Council, and the exception in favor of the military land bounties, were made, promulgated, and carried into execution, through *the instrumentality of the colonial government of Virginia.* And then, it is presumed, it can hardly be doubted that the Crown acknowledged, as the colony claimed, that the territory of Virginia extended beyond the Allegany mountains; and if Virginia was entitled to it, she could only have been so entitled by virtue of her charter of May, 1609; and she had the same title to all the rest of the territory within the limits described by the charter, to the western lands lying beyond the Ohio, as well as to the western lands on this side of that river. It may be remarked, moreover, that though the royal Governor and Council of Virginia professed respect to the royal instructions on the subject, the *people* paid not the least regard to them. They could not get their *patents*, but they persisted in making their settlements with great activity, and were nowise discouraged by the Colonial Government from doing so; and they always acknowledged the jurisdiction of Virginia, claimed her protection, submitted, and indeed claimed to be governed by her laws, and were represented in her legislature. For the de-

* This instruction was prior in date to the proclamation of October, 1763, mentioned in Mr. Hall's report; for it was certainly acted on by the colonial Governor and Council in May, 1763.

fence and security of these very settlers, Virginia waged a war against the Indians, during Lord Dunmore's administration, some two or three years before the Revolution, which was terminated by the battle (memorable in our colonial annals) of Point Pleasant.

So far, therefore, from this intention of the Crown to erect separate colonies beyond the Alleganies, proving that territory not to be within the limits of Virginia, it *admits* the fact. But it has never been pretended that any charters were granted creating such colonial governments; therefore, the western limits of Virginia remained, up to the time of the deed of cession, unchanged, and in all respects the same as were indicated by the charter of 1609.

It is stated in the report, that "the committee did not deem the question of the construction of the charter of any great importance, because they thought the State of Virginia had no right to claim under it;" for that, "in the year 1623 a controversy arose between the Crown and the London Company;" that, "in November of that year, a writ of *quo warranto* issued against the patent of the corporation, and at Trinity term of the Court of King's Bench, 1624, judgment was rendered, cancelling the patent, and ordering the charter to be resumed by the Crown;" that, "from that time *Virginia became a royal province, and continued such* until the period of the American Revolution; that, during the long period of 150 years from the dissolution of the charter of the London Company to the commencement of the American Revolution, not an act was done, either by the *Crown or Virginia*, recognising its existence," (the existence of the charter.) "It was known in history, as a thing that had been, and had ceased to be."

It is apprehended, that if the details of that controversy, and the judgment pronounced in it, were examined, it would be found that the judgment only took away the monopoly, and the power of government over the colony, which were vested in the company by the charter, without affecting at all the territorial limits, or other rights of the colony itself; that the only change was from the proprietary government of a trading company, to a royal government, over the same dominion and colony.

It is sufficient to state that it was so understood at the time, and ever afterwards. Chalmers, in his Annals, page 63, observes that "history, both ancient and modern, evinces what unexperienced reason would infer—that no plantation ever took deep root, or advanced to maturity, under the influence of the interested edicts of a *commercial* combination. And the Assembly of Virginia, after it had tasted the results of a simple government, opposed with a firm spirit, during the subsequent reign, the attempts of those who endeavored to revive the patents and restore the corporation."

That the colonial legislature so understood it, is certain, from the fact that it took part with the Crown against the company; and, in 1642, upon an effort being made to restore the colony to the company, it made an earnest remonstrance and declaration against the measure, every word of which was applied to the *misgovernment* it imputed to the *company*, and the evils that would result to *the colony* if its monopoly and power of government should be restored. (1 Hen. Stat. at Large, pages 230, 236.) That it was so understood by the colonial executive, is proved by the answer of the Governor, Sir William Berkeley, in 1671, to one of a series of statistical inquiries of the commissioner for foreign plantations: "What are the bounds and contents of the land within your government?"

Answer. "As to the bounds of our land, it was once great—ten degrees of latitude; but now it has pleased his Majesty to confine us to half a degree;" (which "must allude," says Mr. Hening, "to the eastern boundary on the sea shore;") "knowingly I speak this. Pray God, it may be for his Majesty's service, but I must fear the contrary;" (2 Ib., p. 514;) quoted in the report under review, page 54. Sir William Berkeley, without doubt, referred to the straitening of our ancient chartered limits, by the charters of Maryland and Carolina. Chief Justice Marshall, delivering the opinion of the Supreme Court in Johnson *vs.* McIntosh, says: "This charter (the charter of Virginia of May, 1609) was annulled *so far as respected the rights of the company*, by the judgment of the Court of King's Bench on a writ of *quo warranto;* but the whole effect allowed to this judgment was to revest in the Crown the powers of government and the title to the lands within its limits;" (the limits described in the charter.) (8 Wheaton, 578.) Every word of the passage quoted seems to have been carefully weighed, and selected to express the legal consequences of the judgment upon the *quo warranto* against the company.

The charter was *annulled, so far as respected the rights of the company*, not in respect to the rights of the colony. The *powers of government*, the same powers which the charter had vested in the company as proprietor, were revested in the Crown; the same title to the lands within its (the charter's) limits, which the charter had vested in the company, was *revested* in the Crown. The charter, so far from being annihilated, was recognised. The vacant lands in the colony were thenceforth crown lands in the King's dominion of Virginia, and the extent of that dominion was only to be ascertained by the territorial limits described in the charter. Those lands could only be acquired by grants from the Crown, and they could only be granted by the Crown, according to a system of land laws enacted by the colonial legislature, and through the instrumentality of the colonial government. Of those colonial land laws we have a long series.

The argument drawn from the judgment against the London Company in 1624, if of avail to prove that Virginia was not thenceforth entitled to claim under the charter of May, 1609, would prove too much. It would prove that she had no charter at all, for she never pretended to have any other: it would prove that Virginia, in her political capacity, had no title to any territory whatever; not only no title to the territory northwest of the Ohio, or west of the Alleganies, but no title to the island of Jamestown, or the city of Williamsburg, or Old Point Comfort.

In the latter end of the reign of Charles II, writs of *quo warranto* were issued against all the New England colonies, especially Massachusetts, which were earnestly prosecuted by James II, who proceeded in like manner against all the colonies, even those which were proprietary in their origin. As to Massachusetts, who was not to be deluded or frightened into a surrender of her charter, the Court of Chancery, in 1784, decreed "against the governor and company, that their letters patent and the enrolment thereof should be cancelled." Such being the fate of the strongest, the weaker colonies surrendered their charters. (See Chalmers's Annals, pages 414, 415, and 416; also, Mars. Wash., chap. 6.)

Massachusetts obtained a new charter from William and Mary, but differing as to the constitution of her government widely from the old one; it converted *her*, too, into a "*royal province*." (Ib. chap. 7.) The others obtained new charters likewise.

The judgment of the Court of King's Bench, pronounced in the case of *quo warranto*, could bind none but the parties in that suit and their privies. The parties were, the King *versus* the Corporation. The colonists were neither parties in, nor privies to, this suit. And if the object of the prosecution, instead of being confined to what it was—a mere inquiry by what warrant the corporators continued to hold their charters of incorporation—had been to convict them of treason, no English lawyer dares to say that the titles of third persons, lawfully acquired from the traitors, before any act of forfeiture committed by them, could be affected by the conviction of treason.

So far as this assertion refers to the commonwealth of Virginia, the committee have already answered it. This sovereign neither claims, nor ever has claimed, anything whatever *under* these charters. She refers to them, constantly, as she would do to any history, geographical treatise, or authentic map, as the best evidence the nature of the case permits, to prove what are the metes, bounds, and extent of the territory which she does claim. She refers to them, as she does to the grants made to others—of Maryland to Lord Baltimore, of Carolina to Lord Clarendon and others, and of Pennsylvania to William Penn—as proofs of what were and are the limits of that region in America called Virginia. Under none of these grants does she claim anything; yet they, too, furnish strong evidence to prove the nature and extent of that which she does claim. This she claims by virtue of her declaration of sovereignty, made in June, 1776, the truth of which declaration then made was afterwards, in 1783, recognised by the King of Great Britain, the former sovereign of this region.

By this declaration and recognition, the commonwealth of Virginia acquired something, as this report itself concedes; and the only question to be examined, is, what were the limits and extent of that something, which this report itself admits to have been so acquired by her. To satisfy such a question, she refers to the ancient charters, as well to her *quondam* colonists as to others.

When the author of the report announces that from the dissolution of the charter of the London Company in 1624, to the commencement of the Revolution, *not one act* had been done, by either the *Crown or Virginia*, recognising the existence of the charter of May, 1609, it is supposed that he was not aware of the controversy between Virginia and Lord Baltimore in 1634, when Virginia asserted her claim, under her charter, to the territory of Maryland; and the King in council did not directly decide against that claim, but left Virginia to her remedy at law. Here was an act of Virginia, certainly, if there was not also an act of the Crown, recognising the existence of the charter under which Virginia claimed. We admit the force of the precedent, and all the legal consequences that can fairly be deduced from it. In all countries governed by the common law, precedent is of force to make law—constitutional as well as municipal law; in all civilized countries, without exception, prescription seems title. The precedent of the charter of Maryland, in effect, established the right of the Crown to dismember from Virginia any part of her territory, at its discretion, without her consent; but it in no wise affected the right of Virginia to such territory within her ancient limits, as had not been dismembered from her.

In Jefferson's Notes on Virginia, (answer to query XIII,) we find the following account of the *treaty of capitulation*, which provided for the security of the practical and civil rights of the colony, as well as its *territorial* rights,

under its charter, and even for the restoration of the territory which had been dismembered from it. "Articles agreed on and concluded at James city, in Virginia, for the surrendering and settling of that plantation, under the obedience and government of the commonwealth of England, by the Commissioner of the Council of State, by authority of the Parliament of England, and by the grand assembly of the Governor, Council, and Burgesses of that country," dated March 12, 1651.

The 4th article is in these words: "That Virginia shall have and enjoy *the ancient bounds and limits granted by the charter of the former kings*, and that we shall seek a new charter *from the Parliament* to that purpose, *against any that have entrenched upon the rights thereof*." Here was an assertion by Virginia of her territorial rights under the charter of the former kings, including that of May, 1609, in a solemn recognition thereof—not indeed by the Crown, for there was then no king; but by the Parliament of England nominally; in fact, by the protector Cromwell, in whom were centred all the executive and legislative powers of the state, to all practical purposes. It appears, too, that Virginia claimed all the territory which had been granted by her charter, and redress against any that had *entrenched upon the rights thereof*—referring, doubtless, to the territory of Maryland, which had been granted to Lord Baltimore by Charles I, in 1633. It was stipulated that Virginia should seek a *new charter from the Parliament* to that purpose—meaning that she should bind herself formally to hold of the Parliament instead of the Crown; and the purpose of that stipulation was, that she thereby engaged indirectly to renounce her allegiance to the house of Stuart, which she could hardly have been brought to do directly, for the body of the people were cavaliers, and very loyal. No new charter was ever obtained from the Parliament; there was never, from that time, any real Parliament to ask one of, during the continuance of the protectorate. Cromwell was sovereign lord and master.

Mr. Jefferson says: "The colony supposed that, by this solemn convention entered into with arms in their hands, they had secured *the ancient limits of their country;* its free trade; its exemption from taxation but by their own assembly, and exclusion of military force from among them; yet, in every of these points was this convention violated by subsequent Kings and Parliaments, and other infractions of their constitution equally dangerous committed." "Instead of 400 miles *on the seacoast*, they were reduced, in the space of thirty years, to about 100 miles," by the protection of Lord Baltimore, in the enjoyment of the territory of Maryland, which had been before dismembered from Virginia, and by the subsequent grants of Pennsylvania to Penn, and of Carolina to Lord Clarendon and others.

In his report, Mr. Hall quotes, as if *authoritative* on the subject, the declaration of Maryland in the preamble to her act of accession to the confederation of January 1781, the representation of New Jersey made in Congress in June 1778, the report of the committee of Congress made in November 1781, and a speech of Mr. Wilson of Pennsylvania. Mr. Wilson (if the report of his speech is correct) said that, "if the investigation of right was to be considered, the United States ought rather to make cessions to individual States than receive cessions from them—the extent of the territory ceded by the treaty" (of peace) "being larger than all the States put together; that, when the claims of States came to be limited on principles of right, the Allegany mountains would appear to be the true boundary; this could be established without difficulty before any court or tribu-

nal of the world." How Mr. Wilson got the Allegany mountains for the back line of all the States cannot be conjectured, unless he regarded that line as established by the King's proclamation of October 1763, whereby the governors of the colonies were prohibited for the present, and until the further pleasure of the Crown should be known, from granting warrants of survey, or passing patents, for any lands beyond the sources of the rivers which fell into the Atlantic ocean from the west or northwest, or upon any lands whatever, which, not having been ceded to or purchased by the Crown, were reserved to the Indians; and all the territories lying on the western waters were reserved under the sovereignty, protection, and dominion of the Crown, for the use of the Indians. Now, if Mr. W. thought that a royal prohibition—and that, in terms, a temporary prohibition—to the colonial governments, against granting vacant lands, or Indian lands, lying within the chartered limits of their respective colonies, took such lands out of the limits of the colonies, and ousted their jurisdiction over them, this seems to be a very strange conclusion from the premises; for we have the authority of the Supreme Court of the United States (in Johnson *vs.* McIntosh) that it was never understood that the existence of the Indian title, unextinguished by purchase or conquest, to any territory within the chartered limits of any of the colonies, made those lands the less a part of the colonies in which they lay. It is surprising that a Pennsylvanian should have admitted that it was competent to the Crown, at its will and pleasure, to take away any part of the lands within the limits of a *proprietary* colony, while the charter of the proprietor remained in force unimpaired; and as to the other colonies, the "royal provinces," the Crown might rightfully have interdicted the grant of any *Crown lands* lying in any part of them; or it might have granted the property and the right of disposing of any tract of *vacant country* within their limits—leaving them yet within the limits, jurisdiction, and government of the colony in which they lay. Thus the Crown *might have* interdicted the sale and grant of the palace grounds within and near the city of Williamsburg; and it *did* grant the whole of the *northern neck* of Virginia to Lord Fairfax, with absolute power to dispose of it; and he, in fact, opened a land office to dispose of it, and did grant it out to individuals upon the terms he thought proper to prescribe; and yet those palace lands would have remained, and the northern neck was always understood to remain, part of Virginia, and subject to his jurisdiction. But the State of Pennsylvania did, it is supposed, entertain a different opinion from that advanced by her delegate in Congress. In examining the correspondence between the commissioners of Pennsylvania (of whom David Rittenhouse was one, whose character is well known) and the commissioners of Virginia, in the treaty for the adjustment of the boundaries between the two States in 1779, it is found that the commissioner of Pennsylvania, notwithstanding the royal proclamation of 1763, claimed, under the charter to Penn, a large tract of country west of the Alleganies, and, moreover admitted most distinctly that Virginia had a right still to claim under her charter of May 1609; though they suggested that the boundaries described in that charter would not take away any part of the land lying within the charter of Pennsylvania, they admitted that all the lands beyond the Alleganies, south and west of Pennsylvania, belonged to Virginia by force of her charter of May 1609; and this was the very basis of the negotiation and of the final arrangement between the two States. (See 10 Hen. Stat. at Large, p. 521—536.)

France, in virtue of her discovery of the mouth and course of the Mis-

sissippi, up as far as the 33d degree of north latitude, claimed all that extensive district of country; before that, she claimed all the lands watered by the streams emptying into the lakes. These conflicting claims between the British colonies and France, ultimately were the cause of the war in 1756. France, in pursuance of her claim, had established a chain of posts from Canada to the Ohio, and along that river, and in the country watered by its tributaries; and the Crown of England had granted to the Ohio Company a tract of 600,000 acres of land in the disputed country. Collisions immediately took place between the French and the Ohio Company; and these were the immediate cause of the war upon this continent. Mr. Marshall says, in his Life of Washington, ch. 11, page 377, that the tract of land granted to the Ohio Company "was actually granted as part of the territory of Virginia; and Dinwiddie, the Lieutenant Governor of Virginia, considering the French aggressions *as an invasion of the colony, the interests of which were committed to him*, laid the subject before the colonial assembly, and despatched General (then Major) Washington with a letter to the commandant of the French forces on the Ohio, requiring him to withdraw from the dominions of the British Crown. It was the colonial government of Virginia which first interposed—it was the colonial government of Virginia that commenced the war, with a corps of provincial troops under Major Washington, which was defeated at the Little Meadows." —(Ib ch. 11, page 367, 379.) The treaty of peace of 1763 extinguished the claim of France to all the territories south of the line of the lakes, and east of the Mississippi; and thus secured to the colony of Virginia the line of the lakes for her *northwestern* boundary, (as she had always claimed,) and restricted her boundary on the *west* to the Mississippi.

Accordingly, Mr. Jefferson, in his Notes on Virginia, traces the boundaries of the State up to the charter of May, 1609, and the successive limitations upon those boundaries, to the charters of Maryland, Carolina, and Pennsylvania; then to the treaty of peace between Great Britain and France of 1763, which limited Virginia to the Mississippi on the west, and to the line of the lakes on the northwest; and, finally, to the cession of the territory northwest of the Ohio, by Virginia, to the United States, which restricted our territory on that side by the Ohio. Can any one suppose that Mr. Jefferson was ignorant of the proceedings and judgment on the *quo warranto* against the London Company in 1624? or that he did not understand the effect of that proceeding upon the territorial rights of the colony under its charter of May, 1609?

Mr. Hall, in his report, has spared us the trouble of showing Mr. Madison's opinions, viz: that *he* had *no* doubt of the original title of Virginia to the territory in question, at the same time that he thought that good policy dictated to her the propriety of ceding that title to the United States. It may be well to explain, that when Mr. Madison said (in his letter to Mr. Randolph of the 10th of September, 1782, quoted in the report, page 61,) that "if the decision of the State, *on the claims of the companies*, could be saved, he hoped her other conditions would be relaxed," he meant the decision of Virginia *against* the claims of the Vandalia, the Indiana, and some other companies, which Virginia deemed contrary to her laws, and declared null and void by her statute of May session, 1779, ch. 12, (2 Rev. Code—app. 2, ch. 4. p. 357;) and when those companies applied to Congress for its sanction of those claims, earnestly protested against the action of Congress on

the subject, by her remonstrance of the 14th of December, 1799.—(10 Hen. Stat. at Large p. 557–8.)

It is worthy of remark, that Mr. Madison was in correspondence with Mr. Edmund Pendleton touching the claim of the United States for a cession of the territory from Virginia. Mr. P. belonged not to the executive or legislative department of Virginia, but to the judiciary; and Mr. M. no doubt, had recourse *to him* for information, as the person most likely to possess and to furnish it; and though Mr. P.'s views and opinions are not given us, we may be sure that Mr. M.'s are an exact exponent of his. To those who know Mr. P.'s character and history, his long and intimate acquaintance with all our colonial affairs, his diligence of research, his opportunity of acquiring full and accurate information, and his capacity, intellectual and moral, to deduce the truth from the information he had acquired, it will, perhaps, not be thought extravagant to say that he, of all men, was the person best informed on this and all like subjects, so far as Virginia was concerned.

Having clearly established that the views presented by Mr. Hall, in the report under review relative to the boundaries of Virginia, were unfounded, and altogether erroneous; and moreover having shown that the importance attached to the revocation of the charter by the Crown of England was equally futile,—it is deemed proper, as the report in other respects gravely questions the right of Virginia to her western territory, to extend our inquiries somewhat farther, so as to embrace most of the prominent points tending to elucidate and establish her right to the territory, which by her deed of cession, she conveyed, under certain conditions, to this Government.

Virginia, in her constitution adopted June 29, 1776, plainly states her boundaries in the following words:

"The territories contained within the charters erecting the colonies of *Maryland*, *Pennsylvania*, *and North and South Carolina*, are hereby ceded, released, and forever confirmed, to the people of those colonies, respectively, with all the rights of property, jurisdiction, and government, and all other rights whatsoever, which might, at any time heretofore, have been claimed by *Virginia*, except the free navigation and use of the rivers *Potomac* and Pokomoke, with the property of the Virginia shores or strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon. The western and northern extent of *Virginia* shall, in all other respects, stand as fixed by the charter of King *James I*, in the year 1609; and by the public treaty of peace between the courts of *Great Britain* and *France*, in the year 1763, unless, by act of Legislature, one or more territories shall hereafter be laid off and governments established westward of the Allegany mountains; and no purchase of land shall be made of the Indian natives, but on behalf of the public, by authority of the General Assembly."

This, it will be seen, is in accordance with the limits and boundaries which we have successfully established to have been indicated by the charter of 1609, and recognised and acquiesced in by the country at large; restricted only by those limitations contained in the subsequent charters granted by the Crown to Lord Clarendon, Lord Baltimore, and William Penn. Virginia thus claimed all the territory within her chartered limits, and embraced in the treaty of 1763, between France and Great Britain, except the portions alluded to; which being conveyed by the British Crown to the parties just named, she therefore abandoned her right to all that por-

tion of her domain included in those charters. Her claim to territory in 1776 was co extensive with her original chartered limits, and the terms of the treaty of 1763 with the restrictions just stated; nor did she lay claim to lands within the chartered limits of any of her sister colonies.

In examining the colonial charters, and the different claims set up to the western territory by several of the old States, it is found that Connecticut claimed the territory north of the 41st degree of north latitude, extending the full breadth of her charter from the Atlantic to the Pacific ocean. But it must be borne in mind that there was a proviso in the charter *precluding* any encroachment on the southern or Virginia colony, or upon lands *then* in the *possession* of any other Christian nation lying *west* of the Plymouth colony. It is believed that Connecticut rested her claim to a large portion of Pennsylvania, partly upon her charter, and, to some extent, on Indian purchases. The citizens of Connecticut insisted that their charter gave them the same breadth of land from the Atlantic to the Western ocean. This Pennsylvania controverted, on the grounds that, at the time the charter was granted to Connecticut, the Dutch *held and possessed* the land along the Hudson river, and that *back* of them the French *claimed*. Besides that, at a later period New York and Connecticut adjusted their boundaries, because of the King's having exercised his prerogative of curtailing the old charters by subsequent grants to other persons.

Chalmers, in his Annals, page 575, states, that "not only had New Netherlands been granted to the Duke of York, but *one-half* of Connecticut; which gave rise to one of those disputes that can only be settled by amicable treaty, because no acknowledged principles existed that were applicable to the pretensions of both. This colony, accordingly, sent commissioners to New York in December, 1664, to decide a dispute which so much involved the peace of both."

The charter of Connecticut was granted in 1661; that of New York, in 1664; that of Pennsylvania, in 1681. In 1684 the commissioners deputed by the King marked the boundaries between New York and Connecticut, which were assented to by all the parties. On account of the adjustment of this western boundary of Connecticut, and because the grant to Penn was subsequent to the Connecticut charter, as well as for other reasons, it was urged that the latter had no valid claim to any portion of the northern part of Pennsylvania.

Massachusetts, also, under her charter, laid claim to an immense territory extending from sea to sea; and from that, as well as on account of purchases, she claimed the land now embraced in New Hampshire and Maine. It is stated in volume 2, page 9, of Williamson's History of Maine, that "the charter of William and Mary, of October 7, 1691, embraced the whole territory of Maine in two great divisions: one, extending from Piscataqua to Kennebeck, was called the *Province of Maine;* the other, including all between Kennebeck and the St. Croix, was usually denominated Sagadahock." "After the treaty of Ryswick, (11th September, 1697,) France, by treaty, and Massachusetts, by charter, both strenuously claimed the Sagadahock province, or country between Kennebeck and St. Croix." (Ibid, vol. 2, page 26.)

In vol. 8 of Wheaton, at pages 578 and 580, Johnson *vs.* McIntosh, it is stated that "a patent for Maine was granted to Georges;" and that afterwards Charles the Second was extremely anxious to acquire the property of Maine, but that the grantees sold it to Massachusetts."

Chalmers, in his Annals, page 379, observes, that "while Charles, before the complaints above mentioned were fully adjusted, was in treaty with Georges, in order to acquire his interest, the general court *slily* purchased his title. Mortified and offended beyond measure, that monarch, though willing to forget past errors and mistakes, required it to give up the purchase, and to return the writings upon being reimbursed the price."

But the claim of Massachusetts to territory beyond her present western boundary, it is fair to presume, was arrested by causes similar to those which restricted the State of Connecticut to her present limits.

Smith, in his History of New York, (pages 13 and 14,) observes, that "the King granted a patent, on the 12th of March, 1664, to his brother, the Duke of York and Albany, for *sundry* tracts of land in America; the *boundaries* of which, because they have given rise to important and animated debates, it may not be improper to transcribe, viz: all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix, next adjoining New Scotland, in America, and from thence extending along the seacoast unto a certain place called Pemaquie, or Pemequid, and so up the river thereof to the further west head of the same as it tendeth northward, and extending from thence to the river of Kimbequin, and so upwards, by the shortest course, to the river Canada northward; and, also, all that island or islands commonly called by the several name or names of Meitowacks or Long Islands, situate and being towards the west of Cape Cod and the narrow Higansetts, abutting upon the main land between the two rivers, then called or known by the several names of Connecticut and Hudson's rivers; together also with the said river, called Hudson's river, and all the land from the west side of Connecticut river to the east side of Delaware bay; and also all those several islands called or known by the names of Martin's Vineyard, or Nantucks, otherwise Nantucket, together," &c.

"Charles II granted to the Duke of York, in March, 1664, the region extending *from* the western *banks* of Connecticut to the *eastern shore* of the Delaware, together with Long Island—conferring the powers of government, civil and military; and considering neither the plantations of *Connecticut* nor of Holland to *exist*."—(Chalmers' Annals, page 573.)

"As the *validity* of the grant to the Duke of York, *while* the Dutch *were* in quiet *possession* of the country, had been very *justly* questioned, he thought it prudent to obtain a *new* one in June, 1674; it confirmed the former."—(Ibid, page 579.)

"When the Duke of York ascended the throne of his brother, this province, with its dependencies, devolved on the Crown."—(Ibid, page 588.)

The State of New York, it appears, did not rest her claim to the western territory upon her charter, but mainly upon Indian purchases. The treaty of Stanwix (this was the name of a fort in the province of New York) in 1768, the result of a congress in which the colonies and the Six Nations were represented, perhaps in conjunction with other pretensions of equal importance, constitutes, it is supposed, the strongest claim that State could urge to the western territory embraced within the chartered limits of Virginia. But to place this view of the subject more authoritatively before the country, the committee respectfully invite attention to the following extracts from the 1st vol. Laws of United States and the Congressional Journal:

"The whole territory north of the river Ohio, and west of the State of Pennsylvania, extending northwardly to the northern boundary of the Uni-

ted States, and westwardly to the Mississippi, was claimed by Virginia; and that State was in possession of the French settlements of Vincennes and Illinois, which she had occupied and defended during the revolutionary war. The States of Massachusetts and Connecticut claimed all that part which was within the breadth of their respective charters; and the State of New York had also an indeterminate claim to the country."—(Laws United States, vol. 1, page 452.)

"The report of the committee, consisting of Messrs. Boudinot, Varnum, Jenifer, Smith, and Livermore, on the cessions of New York, Connecticut, and Virginia, &c., being the order of the day, &c." (See Congressional Journal of May 1, 1782, pages 21, 22, and 23.)

In that report it is stated, "That the agents for New York and Connecticut laid before the committee their several claims to lands, said to be contained within their several States, together with vouchers, &c.; but that the Virginia delegates declined any elucidation of their claim, &c., but delivered to the committee a written statement." This written statement not being printed in the Journal, was found in the Department of State amongst the old papers there filed for safekeeping, and is as follows:

"No. 20.

"*Protest of the Virginia delegates.*

"That no misconstruction, unfavorable to the territorial rights of the State of Virginia, may be put on the refusal of its delegates to exhibit evidence in support of them before the committee to whom the territorial cessions of Virginia, New York, and Connecticut, were referred, according to the request of that committee, and the example of the delegates from New York and Connecticut, the considerations on which that refusal was grounded, and of which the committee were verbally apprized before any progress was made in the present inquiry, are now stated to them in writing:

"1st. The acts of Congress, in compliance with which the above mentioned cessions were made, are founded on the supposed inexpediency of discussing the questions of right, and recommend to the several States having territorial claims in the western country a liberal surrender of a portion of those claims for the benefit of the United States, as the most advisable means of removing the embarrassments which such questions created. To make these acts of surrender, then, the basis of a discussion of territorial rights, is a direct contravention of the acts of Congress, and tends to diminish the weight and efficacy of future recommendations from them to their constituents.

"2d. If the present discussion has been opened upon an opinion that Congress can assume for the use of the United States any portion of territory claimed by an individual State, and supposed by them not to fall within its limits, we are now to learn the page of the confederation in which this power is delegated; if upon an opinion that Congress may exercise jurisdiction in territorial controversies between individual States, we refer the committee to the article of the confederation which vests an exclusive jurisdiction in such cases in another tribunal.

"3d. The cases now before the committee may eventually be brought before that constitutional tribunal. Ought not its decrees to be free from the bias and suspicion to which they may be exposed by the most indirect pre-

judication on the subject of right by so high an authority as Congress, or even a committee of Congress?

"4th. Although it should be confessed that the cognizance of territorial rights belongs to Congress, or a committee of Congress, (against which position we strenuously protest,) yet the very form of conducting this business, if scanned by the ordinary rules of justice, is manifestly and essentially defective. Without any previous notice to the parties of an intention to discuss questions of right, and receive evidence relating to them,—nay, after expressly holding forth to them an intention to exclude all such questions, they are now called upon to exhibit the evidence which supports their respective claims, by which means prepossessions in favor of one party may be erected by arguments and representations which another party is unprepared to controvert.

"5th. Nor can the conditions or reservations annexed to some of the cessions render a discussion of territorial rights necessary to determine the authority of Congress to accept them. For even if these reservations should interfere with the claims of any other State, what injury can arise? since the doors of the constitutional tribunal will not be barred to them; and it may at the same time be declared by Congress that such acceptance shall in nowise affect them.

"JOS: JONES.
"JAMES MADISON, Jr.
"EDMUND RANDOLPH."

A true copy from the original filed in the Department of State.

W. S. DERRICK.

FEBRUARY 5, 1844.

The foregoing protest presents very conclusive reasons for *then* declining to discuss the right and title of Virginia to her territory. But it is a matter of regret that the able gentlemen who presented this paper did not afterwards place the Virginia title in its true light before the country, so as to obviate such imputations as the author, in the report now under review, has seen fit for the first time to dignify, by formally urging them in a report addressed to the House of Representatives. From their known ability and intimate acquaintance with the subject, they could most effectually have vindicated the claim of Virginia, and established her right to all the western territory which she contemplated ceding to the United States. At this late day, the subject is not only deprived of much of its interest, but it has ceased to be a question of practical importance. Notwithstanding this conviction, yet, deeming the assumptions of the report under review no less ill-timed and unfounded than prejudicial to the fame and character of the State of Virginia, it was deemed proper, though at this late day, to repel those extraordinary assumptions, and to place such views before the country in reply, as are sustained by facts and authorities, accompanied with such an exposition of them as our limited time would permit.

The report of the committee of the House of Representatives in 1782, after a brief statement, contains several resolutions, with the reasons for them appended thereto. From the purport of the resolutions, as well as from the character of the particular reasons adduced in their support, it is clear that Massachusetts, New York, Connecticut, &c., did not ground their claims on chartered rights or boundaries; for, if they had depended on

them, they would also have been alluded to by the committee, either in their report, resolutions, or reasons. So it is fair to infer that they deemed the territory in question as lying *outside* of their chartered boundaries.

This was not only the fact, but the reasoning of the committee conveyed no other impression. It is well, too, to keep in mind the fact, that the Virginia charter was anterior to either of the northern charters; and that each of the New England charters contained a clause, protecting the soil and limits of the south Virginia colony from aggression by those claiming under them.

In corroboration of what has just been urged, the attention of the House is invited to the two first reasons appended to the report just referred to, which are as follows:

"*First.* It appeared to your committee, from the vouchers laid before them, that all the lands ceded, or pretended to be ceded, to the United States, by the State of Virginia, are within the *claims* of the States of Massachusetts, Connecticut, and New York, being a part of the lands belonging to the Six Nations of Indians and their tributaries.

"*Second.* It appeared that a great part of the lands claimed by the State of Virginia, and requested to be guarantied to them by Congress, is also within the *claim* of the State of New York, being also a part of the country of the said Six Nations and their tributaries."

The fair inference to be drawn from the proceedings in Congress—so far, at least, as the printed journals present a history of them—is, that not one of the States objected to the claims of Virginia as encroaching upon *their* chartered rights or boundaries. But if those States relied upon *Indian* purchases, and thought, on that account, they had superior claims over Virginia to the western lands, yet a recurrence to history, it is supposed, will but poorly sustain them on that point. Indeed, from the hasty examination which we have given the question, our investigations induce the belief that, if Virginia rested her claim solely on such a precarious tenure as that, still she would, before an impartial tribunal, establish her right. In support of the conclusions we have arrived at on this point, we respectfully invite the attention of the House of Representatives to the following brief account of the treaties, deeds, sales, &c., between the Six Nations of Indians and Virginia:

In the reign of George the Second, in the year 1744, a treaty was concluded at Lancaster, Penn., between the Six Nations of Indians and Lieutenant Governor Thomas of that province, and the commissioners from Maryland, and Thomas Lee and William Beverley, commissioners from Virginia.

During the progress of negotiations, on the 28th of June the Virginia commissioners observed, "that the first treaty between the great King, in behalf of his subjects in Virginia, and you, that we can find, was made at Albany, by Colonel Henry Coursey, seventy years since. This was a treaty of friendship. The next treaty was also at Albany, about fifty-eight years ago, with Lord Howard, Governor of Virginia. Then you declared yourselves *subjects of the great King, our father, and gave up all your lands for his protection.* At a subsequent treaty with Governor Spotswood at Albany, wherein (they said) you have not recited it as it is; for the *white* people, your brethren of *Virginia*, are, in *no* article of that treaty, *prohibited to pass and settle to the westward of the great mountains.* It is the

Indians tributary to Virginia that are restrained, as you and your *tributary Indians* are from passing to the *eastward* of the same mountains."

On the 2d of July, the commissioners proposed that "we will give you, our brethren of the Six Nations, what goods they had with them, costing £200, Pennsylvania money, and £200 in gold, upon condition that you immediately make a deed, recognising the King's right to all the lands that are, or shall be, by his Majesty's appointment, in the colony of Virginia." This resulted in the Six Nations executing a deed of their lands to the King.

In April, 1752, the Governor of Virginia appointed Joshua Fry, Lunsford Loamax, and James Patton, commissioners, in behalf of the colony, to visit the Ohio, with instructions to obtain a confirmation, from the Indians settled there, of the Lancaster deed. In obedience to these instructions, a treaty was held at Loggstown, on the Ohio, between the commissioners and the Six Nations. The Lancaster deed of 1744 was again, by a deed dated the 13th of June, 1752, fully recognised and sanctioned in the following words, viz: "We, sachems and chiefs of the said Six Nations, now met in council at Loggstown, do hereby signify our consent and confirmation of the said deed, in as full and ample a manner as if the same was here recited."—See Colony Titles, pages from 29 to 68.

"Owing to his temper, as well as to his *situation*, Dongan (then Governor of New York) engaged, more than any of his predecessors, in the affairs of the tribes *bordering* on his province, which had so great an influence on its prosperity and peace. When the French settled in Canada, during the year 1603, they found the *Five Nations*, which, under the names of Mohawks, Oneydoes, Onondagas, Cawgugas, and Senekas, had been confederated from the most ancient times, engaged in implacable warfare with the Adirondacks, the most powerful tribe in that country." Subsequently to this war, and about 1680, "the Five Nations, in order to gratify their passion for war, to revenge insults offered during the time of their distress, turned their arms *southward*, and conquered the country *from* the Mississippi to the *borders* of the plantations as far as Carolina, destroying numerous nations, whose names no longer remain. And Virginia and Maryland were involved often in the calamities of their allies, whom they were unable to protect, except by treaties, which were generally infringed because they could not be enforced. In July, 1684, however, Lord Effingham and Dongan concluded a definitive peace with these powerful tribes for all the settlements; which was long inviolably kept, because they soon renewed the war with their ancient enemies the French."—See Chalmers's Annals, pages 585, 587.

"The Six Nations, occupying settlements in the western part of the colony, and having been frequently engaged in wars with the French, were considered as a most important barrier to our frontier American settlements; it was, on that account, deemed expedient to enter into a treaty with them."

"In the year 1684, Lord Howard of Effingham, at that time Governor of Virginia, with two members of his council, visited Albany, to make a treaty with the Six Nations. On the 13th of July, in the presence of the Governor of New York and the magistrates of Albany, he addressed a speech to them, containing proposals for a future alliance and friendship, which were formally accepted and ratified."

"The Six Nations stipulated to submit their lands to the Crown of Eng-

land, 'to be *protected* and *defended* by his Majesty, his heirs and successors forever, to and for the use of them (the said Indians) their heirs and successors.'"

The treaty of Utrecht, in 1763, contains the assent of the French nation to the negotiations previously entered into between the Six Nations and the English, in the following words, viz:

"The subjects of France inhabiting Canada, and others, shall hereafter give no hinderance or molestation to the Five Nations or cantons of Indians, *subject to the dominion of Great Britain*, nor to the other natives of America, who are friends to the same."—See Colony Titles, pages 30 to 50.

It has been already stated that the treaty and purchase made by the Governor of New York with the Six Nations were made and entered into at Fort Stanwix, in the year 1768. This, then, was subsequent to the purchases by Virginia, as the foregoing treaties indicate, and after the close of the French war, which extended the limits of Virginia up to the lakes, and west to the Mississippi river. But purchases of land from the Indians, according to an understanding entered into as early as 1665, were precluded, unless by the sanction and consent of the Governor.

In the chapter treating on the united colonies, the author observes that "it instantly became a fundamental principle of colonial jurisprudence, that, in order to form a *valid* title to any portion of the general domain, it was necessary to show a grant either mediately or directly from English monarchs; and this suggests the principal cause of the general solicitude to procure patents from the sovereigns of England at every period, because in them the *whole* was supposed to be vested."—Chalmers's Annals, p. 677.

"A great dispute between the inhabitants of Jamaica, or Long Island, which was adjusted by Colonel Nicholls, on the 2d of January, 1665, gave rise to a salutary institution, which has, in part, obtained ever since. The controversy respected Indian deeds, and thenceforth it was ordained that *no purchase from the* Indians, *without* the Governor's license, executed in his presence, *should be valid*."—Smith's History of New York, p. 35.

In addition to all this authority, the Legislature of Virginia, in 1662, passed an act which forbade purchases of land from the Indians; and it does not appear that it was ever repealed.—See vol. 2 Hening's Statutes at Large, p. 139.

What has been adduced relative to Indian treaties, sales, and deeds, it is believed is sufficient, should the conflicting claims of the several States be placed on this ground, to establish the right of Virginia to the territory which she ceded to this Government. But, as we have it in our power to produce the highest judicial authority known to this country, which places the claims of Virginia beyond cavil or dispute, we will close the discussion on this branch of our inquiries by citing the conclusive adjudications of the federal court upon several of the points previously argued in this report. As those points are treated by the chief justice and one of the associate justices with great clearness and ability, it is deemed proper, on that account, as well as on account of the great magnitude of the questions, to extract copiously from their opinions.

Judge Baldwin, in his Constitutional Views, page 80, remarks that "this guaranty was fulfilled by the treaty of peace, in which 'his Britannic Majesty acknowledges the said United States, to wit: New Hampshire, &c., to be free, sovereign, and independent States.'—1 Laws, 196. This recognition (relating back to the separate, or unanimous declarations by the States,

as this court have held it) has the same effect as if the States had then assumed the same position, by the previous authority of the King; the treaty not being a grant, but a recognition, and subsequent ratification of their pre-existing condition; and all acts which had declared and defined it previous to treaty, related back to 1776."

"The people of North Carolina declared that all the territory within the bounds of the State was the right and property of the people, to be held by them in *full sovereignty*.—Laws of N. C. 275-6, Book Const. 234-5, December, 1776." (Baldwin's Constitutional Views, page 81.)

"Georgia insisted on that line (the 31st degree of north latitude) as the limit which she was entitled to, and which she had laid *claim* to, when she declared herself independent; or which the United States had asserted *in her behalf*, in the declaration of independence."—(Ibid. page 75.)

It is remarked by Judge Baldwin, page 84, that "all charters and grants of power or property, are governed by the same rules of construction; all questions touching the boundaries of territory, or lines of jurisdiction, must be referred back to the original sovereign, in whom both were vested; and thence deduced, by a regular chain of title, to the contending parties. So this court has done, as to the controversies between the United States and foreign States."—2 Pet. 299, 314.

At page 87 he observes, that "By the Revolution, the duties, as well as the powers of government, *devolved* on the people of New Hampshire, (4 Wh. p. 651;) and, of course, to the people of each separate State." By the treaty of peace, "the powers of government, and the *right of soil*, which had previously been in Great Britain, *passed definitely* to these States."—8 Wh. p. 584.

And it was held by the Supreme Court of the United States "that the only territory which in fact belonged to the United States in 1787, (that which lay west of Pennsylvania and north of the Ohio.) was acquired by the cession from Virginia," &c.—5 Wh. p. 375.

He remarks, at page 93, that "the original right of the Crown to grant the right of soil and the powers of government in and over the proprietary provinces, and the right of soil in the vacant lands in the royal and chartered colonies, was never drawn in question, after the Revolution, by any of the States on behalf of the confederacy; for whenever the Crown had made a grant, it was universally admitted that it was valid. When the proprietary governments were superseded by those of the States, the proprietaries were left in the quiet enjoyment of their rights of property, as in New Jersey to this day; or the States were suffered to resume their vacant lands, and to hold them without any claim by the other States, for any share, as in Pennsylvania. (Vide 1 Dall. L. Pa. 822,) and in Delaware, (2 Laws D. 1074-5.) But the States which had no vacant lands, denied the exclusive right of those States whose right of boundaries extended originally to the South sea, and after the treaty of peace of 1763 to the Mississippi; and set up a claim to a proportion of the unappropriated lands within the limits of those States, as a common acquisition by the confederation, for the common benefit, in right of conquest, from Great Britain; but admitted the legislative power of the States over them, making no claim to jurisdiction. Those States, however, claimed the lands, on the grounds before stated, as their own, by the *devolution* of the Crown to them, the *guaranty* by the proposed articles of confederacy, and of the *treaty* with France.

"To put an end to all future controversy, it was by the ninth article of the

former *provided* 'that no State should be deprived of territory for the benefit of the United States.' Connecting this proviso with the third article, and the second and eleventh articles of the treaty of alliance with France, it is clear that when the confederation became the act of all the States, Congress could, neither by treaty nor otherwise, do any valid act to affect the territorial rights of the States, without a direct violation of the expressed stipulations of both guaranties and this proviso. This was the principal reason why the final adoption of these articles was delayed from November, 1777, till March, 1781. Various attempts were made in Congress to strike out, or so modify this proviso, that the vacant lands should be deemed to be the property of all the States, as a common fund for defraying the expenses of the war; which having all failed, some of the States refused to adopt them. In March, 1780, Congress, finding that the controversy could be no otherwise terminated, recommended to the States to make liberal cessions of their western lands to the United States; to which Virginia and New York agreeing, the articles were signed, and cessions accordingly made by those and other States, which were deemed satisfactory. —Vide 1 Laws U. S. pp. 11, 12, 20, 22, 24, 467 to 482; 5 Wh. 376, 377."

"Now, as no conquests were made by the confederacy, and the possessions of the several States were fixed by the treaty of peace, according to their original boundaries, the confederacy could acquire no territory as possessions or jurisdiction in matters of government; and this court have declared, in four solemn decisions, that they did not." (4 Cr. 212; 6 Cr. 142; 12 Wh. 524; Ib. 534.)

"Taking, it, therefore, as a political or judicial question, it has long since been put at rest, not only by the authority of the constitution, and all the departments of the Government, but in public opinion. It may then be assumed as an unquestioned proposition, that the United States can have no right of soil within any of the States of this Union, unless by a cession from the particular States or a foreign State, who was the original, absolute proprietary thereof. (Baldwin's Constitutional Views, p. 95.)

[From Wheaton's Reports, volume 8.]

JOHNSON AND GRAHAM'S LESSEE,
vs.
WILLIAM MCINTOSH.

[A title to lands under grants to private individuals, made by Indian tribes or nations northwest of the river Ohio, in 1773 and 1775, cannot be recognised in courts of the United States.]

"Mr. Chief Justice Marshall delivered the opinion of the court. The plaintiffs in this case claim the land, in their declaration mentioned, under two grants, purporting to be made, the first in 1773, and the last in 1775, by the chiefs of certain Indian tribes, constituting the Illinois and the Piankeshaw nations; and the question is, whether this title can be recognised in the courts of the United States?

"The facts, as stated in the case agreed, show the authority of the chiefs who executed this conveyance, so far as it could be given by their own people; and likewise show that the particular tribes for whom these chiefs acted were in rightful possession of the land they sold. The inquiry, therefore, is, in a great measure, confined to the power of Indians to give, and of private

individuals to receive, a title which can be sustained in the courts of this country.

"The exclusion of all other Europeans necessarily gave to the nation making the discovery the sole right of acquiring the soil from the natives, and establishing settlements upon it. It was a right with which no Europeans could interfere. It was a right which all asserted for themselves; and to the assertion of which, by others, all assented.

"Those relations which were to exist between the discoverer and the natives, were to be regulated by themselves. The rights thus acquired being exclusive, no other power could interpose between them.

"While the different nations of Europe respected the right of the natives as occupants, they asserted the ultimate dominion to be in themselves; and claimed and exercised, as a consequence of this ultimate dominion, a power to grant the soil, while yet in the possession of the natives. These grants have been understood by all to convey a title to the grantees, subject only to he Indian right of occupancy.

"The history of America, from its discovery to the present day, proves, we think, the universal recognition of these principles.

"The charter granted to Sir Humphrey Gilbert, in 1578, authorizes him to discover and take possession of such remote, heathen, and barbarous lands, as were not actually possessed by any Christian prince or people. This charter was afterwards renewed to Sir Walter Raleigh, in nearly the same terms.

"By the charter of 1606, under which the first permanent English settlement on this continent was made, James I granted to Sir Thomas Gates and others, those territories in America lying on the seacoast between the 34th and 45th degrees of north latitude, and which either belonged to that monarch, or were not then possessed by any other Christian prince or people.

"The grantees were divided into two companies, at their own request. The first, or southern colony, was directed to settle between the 34th and 41st degrees of north latitude; and the second, or northern colony, between the 38th and 45th degrees.

"In 1609, after some expensive and not very successful attempts at settlement had been made, a new and more enlarged charter was given by the Crown to the first colony, in which the King granted to the 'treasurer and company of adventurers of the city of London for the first colony in Virginia,' in absolute property, the lands extending along the seacoast four hundred miles, and into the land, throughout from sea to sea. This charter, which is a part of the special verdict in this cause, was annulled, so far as respected the *rights* of the company, by the judgment of the Court of King's Bench, on a writ of *quo warranto;* but the whole effect allowed to this judgment was, to revest in the Crown the *powers* of government, and the *title* to the lands within its limits.

"At the solicitation of those that held under the grant to the second or northern colony, a new and more enlarged charter was granted to the Duke of Lenox and others, in 1620, who were denominated the Plymouth Company, conveying to them, in absolute property, all the lands between the 40th and 48th degrees of north latitude.

"Under this patent New England has been, in a great measure, settled. The company conveyed to Henry Rosewell and others, in 1627, that territory which is now Massachusetts; and in 1628, a charter of incorporation, comprehending the powers of government, was granted to the purchasers.

"Great part of New England was granted by this company, which, at length, divided their remaining lands among themselves, and in 1635 *surrendered* their charter to the Crown. A patent was granted to Georges for Maine, which was allotted to him in the division of property.

"All the grants made by the Plymouth Company, so far as we can learn, have been respected. In pursuance of the same principle, the King, in 1664, granted to the Duke of York the country of New England, as far south as the Delaware bay. His Royal Highness transferred New Jersey to Lord Berkeley and Sir George Carteret.

"In 1663 the Crown granted to Lord Clarendon and others the country lying between the 36th degree of north latitude and the river St. Mathes; and in 1666 the proprietors obtained from the Crown a new charter, granting to them that province in the King's dominions in North America which lies from 36 degrees 30 minutes north latitude, to the 29th degree, and from the Atlantic ocean to the South sea.

"Thus has our whole country been granted by the Crown while in the occupation of the Indians. These grants purport to convey the *soil*, as well as the *right of dominion*, to the grantees. In those governments which were denominated royal, where the right to the soil was not vested in individuals, but remained in the Crown, or was vested in the colonial government, the King claimed and exercised the right of granting lands, and of dismembering the government at his will. The grants made out of the two original colonies after the *resumption* of their charters by the Crown, are examples of this. The governments of New England, New York, New Jersey, Pennsylvania, Maryland, and a part of Carolina, were thus created. In all of them, the soil, at the time the grants were made, was occupied by the Indians; yet almost every title within those governments is dependent on these grants. In some instances the soil was conveyed by the Crown unaccompanied by the powers of government, as in the case of the northern neck of Virginia. It has never been objected to this, or to any other similar grant, that the title, as well as possession, was in the Indians when it was made, and that it passed nothing on that account.

"Thus, all the nations of Europe who have acquired territory on this continent, have asserted in themselves, and have recognised in others, the exclusive right of the discoverer to appropriate the lands occupied by the Indians. Have the American States rejected or adopted this principle?

"By the treaty which concluded the war of our Revolution, Great Britain relinquished all claim, not only to the government, but to the 'proprietary and territorial rights of the United States,' whose boundaries were fixed in the second article. By this treaty, the *powers* of government, and the *right* to soil, which had *previously* been in Great Britain, *passed definitely to these States*. We had before taken possession of them, by declaring independence; but neither the *declaration of independence*, nor the treaty confirming it, could *give us more* than that which we *before possessed*, or to which Great Britain was before entitled.

"It has never been doubted that either the United States or the several States had a clear title to all the lands within the boundary-lines described in the treaty, subject only to the Indian right of occupancy; and that the exclusive power to extinguish that right was vested in that Government which might constitutionally exercise it.

"Virginia, particularly, *within whose chartered limits the land in controversy lay*, passed an act, in 1779, declaring her 'exclusive right of pre-

emption from the Indians, of all the lands within the limits of her own chartered territory, and that no person or persons whatsoever have, or ever had, a right to purchase any lands within the same, from any Indian nation, except only persons duly authorized to make such purchase—formerly, for the use and benefit of the colony; and lately, for the commonwealth.' The act then proceeds to annul all deeds made by Indians to individuals, for the private use of the purchasers.

"Without ascribing to this act the power of annulling vested rights, or admitting it to countervail the testimony furnished by the marginal note opposite to the title of the law, forbidding purchases from the Indians, in the revisals of the Virginia statutes stating that law to be repealed, it may safely be considered as an unequivocal affirmance, on the part of Virginia, of the broad principle which had always been maintained—that the exclusive right to purchase from the Indians resided in the Government.

"In pursuance of the same idea, Virginia proceeded, at the same session, to open her land office for the sale of that country which now constitutes Kentucky—a country, every acre of which was then claimed and possessed by Indians, who maintained their title with as much persevering courage as was ever manifested by any people.

"The States having within their *chartered limits* different portions of territory recovered by Indians, ceded that territory generally to the United States, on conditions expressed in their deeds of cession, which demonstrate the opinion that they ceded the soil as well as jurisdiction, and that, in doing so, they granted a productive fund to the Government of the Union. *The lands in controversy lay within the chartered limits of Virginia, and were ceded with the whole country northwest of the river Ohio.* This grant contained reservations and stipulations, which *could only be made by the owners of the soil;* and concluded with a stipulation that 'all the lands in the ceded territory, not reserved, should be considered as a common fund, for the use and benefit of such of the United States as have become, or shall become, members of the confederation,' &c., 'according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever.'

"The ceded territory was occupied by numerous and warlike tribes of Indians; but the exclusive right of the United States to extinguish their title, and to grant the soil, has never, we believe, been doubted.

"The United States, then, have unequivocally acceded to that great and broad rule by which its civilized inhabitants now hold this country. They hold, and assert in themselves, the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave, also, a right to such a degree of sovereignty as the circumstances of the people would allow them to exercise.

"The power now possessed by the Government of the United States to grant lands, resided, while we were colonies, in the Crown, or its grantees. The validity of the titles given by either has never been questioned in our courts. It has been exercised uniformly over territory in possession of the Indians. The existence of this power must negative the existence of any right which may conflict with and control it. An absolute title to lands cannot exist, at the same time, in different persons, or in different governments. An absolute, must be an exclusive title—or at least a title which

excludes all others not compatible with it. All our institutions recognise the absolute title of the Crown, subject only to the Indian right of occupancy, and recognise the absolute title of the Crown to extinguish that right. This is incompatible with an absolute and complete title in the Indians.

"However extravagant the pretension of converting the discovery of an inhabited country into conquest, may appear,—if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it,—it becomes the law of the land, and cannot be questioned. So, too, with respect to the concomitant principle, that the Indian inhabitants are to be considered merely as occupants—to be protected, indeed, while in peace, in the possession of their lands, but to be deemed incapable of transferring the absolute title to others. However this restriction may be opposed to natural right, and to the usages of civilized nations, yet, if it be indispensable to that system under which the country has been settled, and be adapted to the actual condition of the two people, it may, perhaps, be supported by reason, and certainly cannot be rejected by courts of justice.

"This question is not entirely new in this court. The case of *Fletcher vs. Peck* grew out of a sale made by the State of Georgia of a large tract of country within the limits of that State, the grant of which was afterwards resumed. The action was brought by a sub-purchaser on the contract of sale; and one of the covenants in the deed was, that the State of Georgia, at the time of sale, was seized in fee of the premises. The real question presented by the issue was, whether the seizin in fee was in the State of Georgia or in the United States. After stating that this controversy between the several States and the United States had been compromised, the court thought it necessary to notice the Indian title, which, although entitled to the respect of all courts until it should be legitimately extinguished, was declared not to be such as to be absolutely repugnant to a seizin in fee on the part of the State.

"This opinion conforms precisely to the principle which has been supposed to be recognised by all European governments, from the first settlement of America. The absolute, ultimate title has been considered as acquired by discovery, subject only to the Indian title of occupancy, which title the discoverers possessed the exclusive right of acquiring. Such a right is no more incompatible with a seizin in fee, than a lease for years, and might as effectually bar an ejectment.

"Another view has been taken of this question, which deserves to be considered. The title of the Crown, whatever it might be, could be acquired only by a *conveyance from the Crown*. If an individual might extinguish the Indian title for his own benefit—or, in other words, might purchase it—still he could acquire only that title. Admitting their power to change their laws or usages so far as to allow an individual to separate a portion of their lands from the common stock, and hold it in severalty, still it is a part of their territory, and is held under them, by a title dependent on their laws. The grant derives its efficacy from their will; and if they choose to resume it, and make a different disposition of the land, the courts of the United States cannot interpose for the protection of the title. The person who purchases lands from the Indians, within their territory, incorporates himself with them, so far as respects the property purchased: holds their title, under their protection, and subject to their laws. If they annul the grant,

we know of no tribunal which can revise and set aside the proceeding. We know of no principle which can distinguish this case from a grant made to a native Indian, authorizing him to hold a particular tract of land in severalty.

"The proclamation issued by the King of Great Britain in 1763, has been considered, and we think with reason, as constituting an additional objection to the title of the plaintiffs.

"By that proclamation, the Crown reserved under its own dominion and protection, for the use of the Indians, 'all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and northwest,' and strictly forbade all British subjects from making any purchases or settlements whatever, or taking possession of the reserved lands.

"It has never been contended that the Indian title amounted to nothing. Their right of *possession* has never been questioned. The claim of Government extends to the *complete ultimate title*, charged with this *right* of possession, and to the *exclusive* power of acquiring that right."

After such an array of facts and authorities in favor of the claims of Virginia to *all* the territory which she either ceded to the United States, or reserved to herself, we may pronounce the points mooted by Mr. Hall, as "*coram non judice*," and therefore, that the verdict of the committee on that account, and for other reasons, "***non constat.***"

Mr. Hall, in the conclusion of his argument, in that portion of the report which we have reviewed, not content with advancing what we have already considered, proceeds emphatically to express an opinion no less extraordinary than those we have just noticed. Notwithstanding our unwillingness to dwell on this subject, yet we would consider that we had imperfectly discharged our duty, were we to omit placing this assertion of his also in its proper light before the country. But, in undertaking to do that, we propose to be as concise as the nature of the allegation would admit, and we hope, after having removed his more elaborate and learned objections against satisfying the outstanding revolutionary land bounty warrants, we shall be able to despatch his minor difficulties, equally as satisfactorily, and with more brevity.

In report No. 1063, page 62, we find the following: "On the contrary, it very clearly appears to the committee that the title of Virginia to the land ceded by her, as well as to a large portion of the lands retained and reserved by her, was of an extremely doubtful, not to say of a very flimsy character; and that the cession, when made, was as *much* for *her* own interest and benefit, as for the interest and benefit of the *United States*."

Mr. Hall thus concludes that learned portion of his speculations about the boundaries, chartered rights, and claims of Virginia to the western territory, which, at the instance of *this* Government, she ceded on certain conditions to the United States. He roundly asserts that "the cession, when made, was as *much* for *her* own interest and benefit, as for the interest and benefit of the *United States;*" and this inference he rests upon the assumption that "the title of Virginia to the land ceded by her, as well as to a large portion of the lands retained and reserved by her, was of an extremely doubtful, not to say of a very flimsy character." But as we have, in the introductory part of this report, conclusively established the right and title of Virginia to *all* the lands contained in her ancient chartered limits, with the restrictions mentioned in

her constitution, adopted the 29th of June, 1776, wherein her boundaries are clearly set forth; we, therefore, deem it amply sufficient to remark, in this place, that, inasmuch as the *foundation* on which this inference of Mr. Hall rested was altogether illusory and fanciful, his conclusion must necessarily be impotent and worthless.

In connexion with this view of the subject, we propose cursorily to examine the amount of gross revenue which this Government has derived from the several portions of territory ceded by the different States to the Federal Government. The disposition manifested in the reports under review to *disparage*, both by every variety of argument and by insinuation, the just claims of Virginia, and thereby to impair the desire heretofore manifested by this Government to consider them favorably, impels us, in reply, to touch upon a topic which a sense of propriety, if no other reason could be found, should have dissuaded Mr. Hall from so elaborately arguing in his report. No ignoble desire of drawing invidious comparisons, nor of disparaging either or any of the States of this Union, or in any way to question the course of policy which the Federal Government has deemed it proper to pursue in relation to this subject, has influenced our conduct on this occasion. On the contrary, we hold it in as bad taste to magnify the liberality of States as of individuals; and with equal justice it is maintained, that wantonly to disparage either, is equally repugnant to every consideration of propriety.

While the data presented for our consideration are not altogether definite as regards the precise amount derived from the sales of lands which *each* particular State may have ceded; yet in some instances they are so, and in others, when viewed in conjunction with what is *usually admitted* to have been the districts *respectively* ceded by each State, we can arrive at an approximation sufficiently near the exact point to enable the House of Representatives to draw such deductions as we think will heighten rather than diminish the disposition heretofore manifested to pay in full all the remaining land bounty claims. This laudable policy of satisfying these old revolutionary debts, we humbly conceive will be yet farther promoted by contrasting the foregoing with the various returns or donations in land which Congress was required, or has seen fit, to accord to particular States since accepting the deeds of cession.

By reference to the various deeds of cession, it will be found that some of them contained special reservations in favor of the States granting the lands, while others did not. It is not material to our purpose to inquire into the reasons which induced some of the States to make those reservations, as it is sufficient simply to state the fact, and the extent and character of those reservations.

Virginia, in her deed, required her expenses in subduing and defending the ceded territory to be reimbursed; that 150,000 acres of land should be allowed and granted to Clarke's regiment; that in case of there being a deficiency of good lands on the southeast side of the Ohio to satisfy the land bounties due the troops of her continental line, it should be made up of *good* lands on the northwest side of the Ohio, between the Scioto and Little Miami rivers.

For the last-mentioned purpose, the troops of the continental line have located warrants in Ohio to the extent of - - - - - - - - 3,550,000 acres.

And Congress has appropriated in land scrip, at different times, to satisfy the troops of the State and continental lines, and the State navy - - - -	1,460,000 acres.
	5,010,000 "
Military lands reserved for Clarke's regiment - -	150,000 "
Total - - - - - - -	5,160,000 acres.

Connecticut made her deed of cession on September 14, 1786. She then ceded her claims to the territory lying between the 41st and 42d degrees of north latitude, and west of a line 120 miles west of the western boundary of Pennsylvania. She "reserved a tract of land on Lake Erie, bounded on the south by the 41st degree of north latitude, and extending westwardly 120 miles from the western boundary of the State of Pennsylvania. The cession of Massachusetts and New York included an insulated tract, commonly called 'the triangle,' lying on Lake Erie, west of the State of New York, and north of that of Pennsylvania; and which has since been sold by the United States to Pennsylvania.

"North Carolina ceded to the United States all her vacant lands beyond the Allegany chain of mountains, within the breadth of her charter; that is to say, between 35° and 36° 30' of north latitude, the last parallel being the southern boundary of the States of Virginia and Kentucky. That territory which now forms the State of Tennessee was, however, subject to a great variety of claims described in the act of cession; and Congress has, by the act of April 18, 1806, ceded to the last mentioned State the claim of the United States to all the lands east of a line described in the act, leaving the lands west of that line still liable to satisfy such of the claims secured by the cession from North Carolina as cannot be located in the eastern division."

"South Carolina and Georgia were the only States which had any claim to the land lying south of the 35th degree of north latitude. By the cessions from those two States, the United States have acquired the title of both to the tract of country extending from the 31st to the 35th degree of latitude, and bounded on the west by the Mississippi, and on the east by the river Chatahooche, and by a line drawn from a place on that river, near the mouth of Uchee creek, to Nickajack, on the river Tennessee." As a condition of the cession from Georgia, the Indian title to the lands within her present boundaries was to be extinguished at the expense of the United States, and she was also to receive 1,250,000 dollars out of the proceeds of the first sales of lands in the ceded territory.—1 vol. Laws, U. S. pages 452 and 453.

It is plainly seen, from the foregoing, that the deeds of Virginia, North Carolina, Georgia, and Connecticut, contained large and special reservations in favor of those States, and that the deeds of the remaining States did not. The history of the times seems clearly to establish that it was the aim and policy of those States ceding their territory, that *all* of the *good* and *valid* claims of the *citizens* of either of those States to portions of the ceded territory *should* be properly and adequately guarded and protected.

Certainly it would have been a most singular transaction for those States, placed under legislative obligations to their citizens, not only to disregard such a state of facts, but to divest themselves of the ability to redeem these

solemn promises whenever they should be demanded. Such a course would have been contrary to justice and common sense. Virginia, in ceding her territory, was not only mindful of this consideration, but thought she had made the most ample provision to guard against all contingencies.

Her *continental line* is especially *provided* for in the deed. Have *all* those claims been liquidated? We answer in the negative. Then should they be paid? We answer, that all bona-fide claims against the Government should be paid.

Have all of her other debts incurred in prosecuting the war of the Revolution been paid? Again we answer in the negative; for there are yet *outstanding* land bounty claims due her State line and navy. And those troops participated as fully, as freely, and as successfully in that great struggle for independence, as those of the continental line. Their claims are deemed equally meritorious, and they are doubtless embraced within the scope and intention of the act of Congress of 1790, which purported to assume the debts of the Revolution. But we will for the present waive urging this point, and proceed with our comparative statements.

In the annexed tabular statement from Colonel Thomas H. Blake, Commissioner of the General Land Office of the United States, a full and comprehensive exhibit is made—first, of the entire area or number of acres ceded by the different States; secondly, of the gross proceeds of the sales of the public lands ceded to this Government by each respective State; thirdly, the number of acres yet unsold; and, fourthly, the amount in money which it has cost this Government to extinguish the Indian titles to the various portions of territory ceded by each State. Also, in the explanatory notes, we find stated the several reservations or payments to particular States, as well as amounts paid to extinguish Indian titles in some of the States ceding their western territory. Before adverting more particularly to this table, we will simply recall to mind what has been established in the preceding part of this report, viz: that Virginia rightfully claimed, not only up to the 41st degree of north latitude, from the western boundary of Pennsylvania, but that, by the treaty made in 1763, by Great Britain with France, in consequence of Virginia having involved Great Britain in a war with that power, by vindicating her right of soil, which France had encroached upon, Virginia then had her northern limits extended out to the lakes. But as it is not our purpose to do more than to *disprove* the imputations of Mr. Hall, that "the cession, when made, was as *much* for *her own* interest and *benefit* as for the interest and benefit of the United States," we will, in our efforts to accomplish this purpose, not aim, therefore, to show the highest possible results which Virginia might lay claim to, but content ourselves with keeping within a limit which, it is believed, few (if any) will question as being legitimate, after examining what has been advanced in support of the right and title of Virginia to *all* the territory which she ceded to this Government. The charter of Connecticut, it has been shown, prohibited her from coming south of the 41st degree of north latitude, and Virginia claimed up to the 41st degree. So, therefore, as we have shown heretofore, that neither Connecticut nor any northern colony could, under their charters, claim below the 41st degree of north latitude, all the territory south of that parallel to the North Carolina line being included within the limits of Virginia, *clearly* belonged to her. On this account, and for the reasons above stated, we will only extend our estimates and comparative statements, so far as Virginia at present is interested, to the ceded territory

lying south of the 41st degree of north latitude; and with our base thus restricted, we think it can be conclusively shown that the *reverse* of what Mr. Hall declares is true. Adopting the 41st degree north latitude as our northern limit, in making this comparative statement, it will be found, by an inspection of the map of the United States, that about four-fifths of the entire area of Ohio, Indiana, and Illinois, is situated south of that parallel. Then we have but to take four-fifths under the several heads in the annexed table referring to those States, and we obtain the data for our calculation, which, having been carefully made out, we also append, in order that we may the more satisfactorily present our views. In addition, we propose to present a statement of the various valuable considerations reserved, or received, by several of the States, from this Government, since making their deeds of cession.

GENERAL LAND OFFICE,
April 12, 1844.

SIR: In accordance with your request, I enclose herewith a statement showing the area of the territory ceded to the Federal Government by Virginia, New York, Massachusetts, Connecticut, North Carolina, and Georgia; the gross amount of money received by this Government on account of sales from that territory; the number of acres remaining unsold; and the amount in money, goods, &c., which it has cost the Government to extinguish the Indian title to those lands.

I have the honor to be, very respectfully, your obedient servant,

THO. H. BLAKE, *Commissioner.*

Hon. E. W. HUBARD,
House of Representatives.

Statement showing the area of the territory ceded to the Federal Government by Virginia, New York, Massachusetts, Connecticut, North Carolina, and Georgia; the gross amount of money received by this Government on account of sales from that territory; the number of acres remaining unsold; and the amount which it has cost the Government to extinguish the Indian title to those lands.

For lands ceded by Virginia, New York, Massachusetts, and Connecticut.

States.	Entire area.	Amount of purchase money received.	Acres unsold.	Cost of extinguishing Indian title.
	Acres.			
Ohio - - - -	25,361,593 *a*	$22,905,352 61	981,826	
Indiana - - -	23,411,431 *b*	19,418,423 63	5,174,530	
Illinois - - -	35,235,209 *c*	16,027,394 84	17,336,282	
Michigan - - -	38,426,294	11,621,057 25	27,596,199	
Wisconsin Territory -	47,175,292 *d*	2,896,648 98	45,985,379	$13,793,170 00
Total - - -	169,609,819	72,870,877 31	95,074,216	13,793,170 00

For lands ceded by Georgia.

Alabama, N. of 31° - -	31,240,725 *e*	$17,178,995 56	15,811,243 *g*	
Mississippi do. - -	27,605,870 *f*	13,039,829 37	9,406,706 *g*	$11,828,130 41
Total - - -	58,846,595	30,218,824 93	25,217,949	*$11,828,130 41

For lands ceded by North Carolina.

Tennessee - - -	26,432,000 *h*	- -	3,353,824 *h*	†2,626,449 58

* The cost of extinguishing the Indian title here charged, embraces the sum of $3,398,940 58, which it cost the Government to extinguish the Indian title within the State of Georgia.

† The charge here made for extinguishing the Indian title, includes the sum of $1,037,379 83 cost of extinguishing the Indian title in the State of North Carolina.

a Includes reservations under the deeds of cession as follows, viz:

Virginia military - - - - - - - -	3,709,848 acres.
Connecticut reserve - - - - - - -	3,666,921 "
Lands to be sold for the benefit of Wyandots - - - -	265,873 "

b Includes Clarke's reserve under deed of cession - - - - 150,000 "

c Includes lands granted for military bounties - - - - 2,839,663 "

d Includes lands to which the Indian title has not been extinguished - 19,651,800 "

e Includes Chickasaw cession in Alabama - - - - - 431,589 "

f Includes Chickasaw cession in Mississippi - - - - 6,283,997 "

g Excludes Chickasaw cession.

h See my letter of the 19th of March, 1844.

The areas of the States include the whole surface; the amounts unsold include only the lands subject to the operation of the laws authorizing the survey and sale of the public lands, and exclude the lands reserved for

schools, and those granted to the States for internal improvements, colleges, &c. This statement is made up to the 30th of September, 1843; and, in making up the items of the cost of extinguishing the Indian title, the value of lands reserved or given in exchange was not taken into consideration, as much of the land thus reserved or given in exchange was afterwards ceded from time to time; and the consideration paid in money, goods, &c., for those lands, being embraced in this statement, to have charged the value of them also, would have been a double charge against the public lands. Lands were given west of Arkansas to many of the tribes; but it would be impossible to ascertain the precise *cost* of those lands to the Government, as they were obtained by the treaty of 1803 with France.

GENERAL LAND OFFICE, *April* 12, 1844.

Supposing, for the sake of illustration, that four fifths of Ohio, Indiana, and Illinois, are situated south of the 41st degree of north latitude, we have then the following results:

A.

Estimated number of acres ceded by Virginia south of the 41st degree of north latitude - - - - -	67,206,588
Number of acres of land yet unsold - - -	18 791,111
Gross amount of money received from the sales of land -	$46,680,936 07
Cost of extinguishing Indian titles - - -	11,034,536 00

This proves that this Government has derived a very great "*benefit*" from the Virginia deed of cession, independent of the cost of extinguishing the Indian titles, and the expenses of surveying and selling out those lands thus acquired, besides having yet on hand and unsold largely over eighteen millions of acres. Thus it will be seen that, even according to this statement, Virginia, at the lowest possible estimate, ceded to this Government 67,206,588 acres of land, and has received in return only 5,160,000 acres to pay the land bounties due her revolutionary troops.

The foregoing tables from the Land Office show further, that the State of Georgia made the next most liberal surrender of territory to this Government, and that the cession from North Carolina actually has brought this Government in debt; or, in other words, that it has so far cost this Government more money to extinguish the Indian title to the lands in Tennessee, and *within* the *limits* of North Carolina, than has ever been received from the sales of the lands ceded by that State. Indeed, it will be seen that, up to this time, *not one dollar* has been received by this Government from the sales of any of the lands ceded by that State. Furthermore, it will be seen that Connecticut *reserved* 3,666,921 acres of land for her individual benefit, when she made her deed of cession. It is also stated, in these tables, that this Government has, as was required in the deed of cession from Georgia, extinguished the Indian titles to the lands *within* the *limits* of that State, and for her use and benefit, at a cost of $3,398,940 58.

In connexion with this view of the subject, and particularly as the different grants to the several *new* States embraced within the limits of the ceded territory were not included in the foregoing tables from the Land Office, and would, when added, *augment* the extent of the cessions made by Virginia and Georgia, it was deemed both relevant and necessary that

a full exhibit of all the facts should be presented. On this account we insert the annexed letter from the Commissioner of the Land Office. It will be perceived, on an examination of the tables, that seven of the new States therein mentioned have received, on an average, from this Government, 1,576,905 acres of land for sundry purposes.

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GENERAL LAND OFFICE, *April* 17, 1844.

SIR: In accordance with your request, I send you enclosed a statement —the first column of which shows the number of acres of land granted to each State and Territory therein mentioned, for internal improvements, salines, public buildings, seats of government, colleges, seminaries of learning, and religious purposes; the second column shows the amount of land reserved for schools; and the third, the aggregate of these several grants.

I have the honor to be, very respectfully, your obedient servant,

THOS. H. BLAKE, *Commissioner.*

Hon. E. W. HUBARD,
House of Representatives.

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Statement showing the number of acres granted for internal improvements, salines, public buildings, seats of government, colleges, seminaries of learning and religious purposes, and the amount reserved for schools, with the aggregate amount of these several grants.

States.	Quantity granted.	Amount reserved for schools.	Aggregate.
	Acres.	*Acres.*	*Acres.*
Ohio - - -	1,164,537	710,017	1,874,554
Indiana - - -	886,631	650,317	1,536,948
Illinois - - -	690,269	978,755	1,669,024
Michigan - - -	609,500	1,067,397	1,676,897
Wisconsin Territory -	217,280	1,310,424	1,527,704
Total - -	3,568,217	4,716,910	8,285,127
Alabama, N. of 31° - -	571,220	867,798	1,439,018
Mississippi, do. - -	547,360	766,830	1,314,190
Total - -	1,118,580	1,634,628	2,753,208

The amount reserved for schools is estimated by taking one-thirty-sixth part of the entire area of each State, &c.

GENERAL LAND OFFICE, *April* 17, 1844.

From all the facts here presented, it will be seen that, in proportion to what each State ceded, and has since received in return, Virginia will not suffer in the public estimation whenever a comparison may be instituted. But it will be remembered, that it has been asserted in the report under review, "that the cession when made (by Virginia) *was as much for her own interest and benefit, as for the interest and benefit of the United States.*" To repel this assumption, the foregoing statement, (marked A,) taken from data contained in the above tables from the General Land Office, has been presented—not as containing *all* that might be inserted in favor of Virginia, but only as an approximation to it. For we have endeavored to keep under, rather than overleap the facts in the case; and we feel assured that what has been advanced by us in favor of the title of Virginia, as well as what is here exhibited, will, in the estimation of all unprejudiced minds, most fully and successfully refute this last-mentioned allegation of Mr. Hall.

When large classes of individuals claiming their rights of this Government, under the sanction of a contract, in which it stipulates to satisfy their equitable demands, not only have gross injustice done them by the Government's refusing to redeem its obligations, but have also to submit to all the odium which a long and elaborate *ex parte* examination may enable the disingenuous to cast upon their characters, justice demands that we should, under such circumstances, not only present a review of such unparliamentary proceedings, but in the mean time allow due weight to whatever may be reasonably urged in vindication of the claimants. That any great number of persons taken from the mass of the people, and having claims against the Government, should in all instances urge their pretensions, and place their demands within the pale of precise and legal forms, cannot reasonably be expected, even should all the transactions occur during times of profound peace. But that contracts entered into pending our revolutionary struggle, between the Government and its soldiers who gallantly devoted themselves to the defence of their country, when everything was in a state of the greatest consternation and confusion, should afford opportunities for the ungrateful and illiberal to repudiate their hard earned bounties, and to indulge in broad and sweeping imputations derogatory to the character of the claimants, surely cannot excite surprise nor elicit our admiration. Over the veteran soldier, stern officers were placed to exact a rigid compliance with his part of the contract. He had pledged himself to brave hardships, and to face the enemy amidst all the perils of war. Thus, while duty and his country's cause led him to seek victory at the cannon's mouth; yet, should he falter or desert, disgrace or death was to be the reward of his treachery. But, now that the Government has *achieved* its independence, and is in the full fruition of the innumerable blessings for the attainment of which he bravely bared his breast to his country's foes; now, that the star-spangled banner proudly waves over this Capitol to attest the fidelity with which he fulfilled his part of the contract, and he, with his brow thus flushed with victory, in turn asks of the Government to comply with its part of the stipulation—shall he, as the tone of these adverse reports now under review suggests, be treated as a laborer unworthy of his hire? The day, it is to be hoped, has not yet arrived when the Federal Government, the child of our revolutionary struggle, shall coldly set to work to ferret out pretexts for refusing to compensate the brave veterans to whom it owes its existence. Still less can we believe that our enlightened national legislature would stoop to traduce them. Certainly, it would be painful enough to refuse them their just

rights; but dead must be the heart to every noble and patriotic emotion, which can permit any one, in that case, to add insult to injury. On the contrary, a generous enthusiasm should prompt the present generation fully and amply to discharge all of our revolutionary obligations. Noble sacrifices were then made, and great and glorious consequences were the result. The claims now to be considered, originated in the most gloomy period of our eventful career, and therefore commend themselves to our favorable consideration; and should, from their association, rather awaken our generous sensibilities, than fall victims to a prejudiced and contracted policy. What if we should now overpay those debts: have not the claimants, in part, conferred on this Government the ability to liquidate them? Besides, how many of our veterans purchased the lands they now demand—not "with a pound of flesh," but with their lives? How many (as in the course of this report will be made manifest) though entitled, yet have never claimed their bounty lands? And how many more are there of those who did claim, yet have not exacted the full extent of what was fairly due them? How many are there who now sleep the sleep of death on our ever-to-be remembered battle fields, whose heirs have never received anything at the hands of this Government? With these facts before us, can an American Congress, without disregarding its own dignity, and tarnishing the honor of the country, refuse to pay *all* the remaining just claims now outstanding? Shall this Government ever be guilty of the heinous crime of repudiating any portion of its revolutionary debts, as the reports under review have recommended? What language can the patriot find adequate to convey his indignation, even at such a suggestion? Still less, could the future historian who might chronicle so foul an act of bad faith, heightened as it would be by the deepest ingratitude, command terms sufficiently strong properly to stigmatize an act so base. Is it not, under all the imposing circumstances which these claims come before Congress, more in accordance with the spirit and history of the past to examine them with a disposition to pay, rather than cynically set to work to divest them of their rights, simply because the lapse of time or accident may have prevented a technical exhibition of all the requisites which casuistry or legal subtlety may suggest as material? Would it not be more creditable to an American Congress, at this remote day—now that the difficulties of establishing claims have so much increased—to be liberal in its award, rather than assume the odious task of denying justice in a single instance? Believing, therefore, that public sentiment no less than duty demands it, the committee will endeavor to examine this subject, not with a disposition to justify the Government in refusing to comply with its sacred obligations, but rather with the more laudable desire of ascertaining whether there are good and sufficient reasons for inducing the fulfilment both of the spirit and letter of the deed of cession, and of the resolution of Congress of August, 1790.

By one of the provisions of the act of the Legislature of Virginia, in May, 1782, warrants were to be issued on the certificate of the commissioner of war; but in October of the same year this portion of the act was repealed, and the duties of the office transferred to the Executive. Ever since, the Executive has exercised the power of deciding upon claims to bounty lands. When a claim is allowed, the Executive gives a certificate to the claimant, who carries it to the land office of that State, and the register issues to him a warrant directed "to the principal surveyor of the land set apart for the officers and soldiers of the commonwealth of Virginia," empowering him to

lay off and survey, to the person in whose favor the warrant is drawn, the quantity of land therein specified.

By the act of May, 1779, it was provided that the evidence on which warrants should be granted should, in the case of an officer, be the certificate of a general officer, or commanding officer of troops on the Virginia establishment; and in the case of a non-commissioned officer or soldier, that it should be the certificate of the commanding officer of the regiment or corps to which he belonged; such certificates "distinguishing particularly the line in which such officer or soldier had served." This act continued in force until 1815, when the Executive was authorized to allow claims for land bounty "when *satisfactory* evidence is adduced that the party *is entitled*." This had been the *practice*, however, long before.—(Henning's Statutes, vol. 2, page 562, note.)

It is proper to state, that during the revolutionary war positive engagements were made by Congress to allow to the officers and soldiers of the continental army land bounty and half-pay for stipulated service. Virginia, on the repeated recommendations of Congress relative to the means of carrying on the war vigorously, made similar but more liberal engagements with the officers and men who served in her State and continental corps and lines, and State navy. But let it be *distinctly* borne in mind, that, at the *time* when a great many of these engagements were made, both by Virginia and the United States, *no regulation was made prescribing the precise character and amount of evidence* in all cases, which would be required to *establish* claims to the land bounty and pay stipulated to be paid for the performance of prescribed service by the claimants. Though Virginia passed an act, in May, 1779, indicating the kind of evidence which would be required, yet we are to infer, from the general acquiescence, that circumstances then rendered it not unreasonable. So, too, the Secretary of War was directed to allow land to all who were entitled, "on the evidence of the army returns in his office, or such other sufficient evidence as the nature of the case may admit."—(See Journal of Congress, April 26, 1785.)

As a variety of causes had delayed the prosecution of a great many Virginia claims for revolutionary services; and as it was next to impossible, in the nature of things, some thirty-odd years after the war, for claimants at that late day to obtain the certificates of commanding officers and generals, as required by the act of 1779; the Legislature of Virginia, actuated by the same enlightened and liberal considerations which doubtless influenced the national councils when, in 1785, they instructed the Secretary of War to allow land bounty to all who were entitled, "on the evidence of the army returns in his office, *or such other sufficient evidence as the nature of the case may admit*," likewise, in 1815, passed an act authorizing the Executive to allow claims for land bounty "*when satisfactory evidence is adduced that the party is entitled.*" The fact that Congress and the Legislature of Virginia should, after the war was over, adopt in substance the same general rule respecting the character of the evidence, is worthy of remark. Yet it has been intimated that Virginia had not been rigid enough; when the fact is, that she passed two acts—one in 1779, and another modifying it in 1815; while, on the other hand, Congress only instructed the Secretary of War in 1785—and that, too, in a manner in no respect more rigid than the rule laid down for the Executive by the Legislature of Virginia. The committee are aware that a change of this rule has been recently urged by some, who insist that the claims in question ought not to be allowed, except on *record* evidence of their validity. But it must be obvious that such a re-

quisition as this would do great injustice to many; and it would be strange indeed, *now* that nearly all these records are destroyed, and almost every one of the revolutionary officers dead, to make the evidence to be found in the few remaining relics of more avail than when they were in a full state of preservation. Such a rule of evidence might at first, if adopted, have made, as it certainly would now, short work of all military claims on the Government; for the destruction of the army records, whether by accident or design, would have put an end to these claims. That the preservation of these records was important to the Government, is obvious; but it is as obvious that their destruction has occasioned many valid claims to remain unsatisfied. Thus it appears to the committee that the character of the revolutionary claims now under consideration, no less than the eventful period which gave them birth, together with all the accompanying circumstances, fully sanction the justness of the rules prescribed as a guide for the Executive of Virginia in authorizing the issue of revolutionary land bounty warrants.

The committee refer the House of Representatives to the following cogent and succinct extract from Mr. B. W. Leigh's speech, delivered in 1822 before the Legislature of Kentucky, as the commissioner from Virginia to adjust the points of dispute then agitating those two States. Mr. Leigh therein presents a lucid and masterly summary of the "Virginia military bounty land laws, and of the proceedings which have been had under them." Being himself intimately acquainted with the laws and policy of his native State, and occupying, justly, a rank inferior to no man in the learned profession in which he has so long shone as one of its most distinguished members, it will readily be conceded that anything emanating from him is worthy of the highest respect. In this particular instance, acting as the commissioner of Virginia, it is to be presumed that everything he said pending that discussion was maturely considered and duly weighed, and therefore may be safely relied upon as being just and legitimate.

"I have reason to believe that the various laws of Virginia, on which the claims of the holders of unsatisfied military warrants are founded, have never been accurately understood in Kentucky; that many of the provisions of them have been, perhaps, entirely unknown, or forgotten. It behooves me, therefore, to preface what I have to offer in the way of argument, with a full, though at the same time concise, history of the various laws of Virginia relating to the military bounties, and of the proceedings which have been had under them.

"You know, sir, that, at the commencement of the Revolution, the United States were almost wholly destitute of one of the main sinews of war. They wanted not men fit and strenuous to maintain the vital struggle in which they had engaged; but they sadly wanted money, without which, national force, however incited by enthusiasm, or sustained by constancy and loyalty, must ever be irregular in the exertion, and often wholly inert. This, indeed, was their chief difficulty. They had, in a manner, to create their means. To assure to the soldiers of liberty a portion of the soil which should be won from the oppressor, and defended by their valor, was one of the first expedients that occurred—the most obvious, natural, and just. And, accordingly, military land bounties were very early recommended by Congress to such of the States as had land to bestow.

"Of all the States in the Union, Virginia possessed the fairest and most ample domain; and, owing to the jealous policy of the British Crown—

which had, in 1763, prohibited all grants of land on the western waters, and had even endeavored (though in vain) to destroy the settlements already made in those regions, and to prevent them in future, to check the spirit of adventure and the march of population which was rapidly penetrating and subduing the vast wilderness of the west—far the largest and most fertile portion of her territory was yet unappropriated, and at her disposal. Thus abounding in the means of reward, and her policy, generosity, and justice corresponding with her means, she offered, and solemnly promised and assured, to all who would engage in her land or naval service, upon continental or State establishment, a liberal bounty of lands. At every session of the Legislature during the war, these promises and assurances were renewed, and the public faith over and over again pledged to the fulfilment of them. They were proposed to the recruit, as a motive to engage in the service; they were renewed to the veteran, as a motive to persevere. Never was contract more solemn and explicit on the part of the public; never was consideration more meritorious on the part of the soldier, or more faithfully performed. He purchased his bounty with toil and long suffering, and sealed the bargain with his blood; and for his modicum of the public domain, he gave his country, in exchange, independence and sovereignty, freedom and glory.

"Virginia, faithful to her obligations, and deeply impressed with a sense of the service, was most solicitous to set apart and preserve untouched the means of fulfilling the promised reward. Upon the first agitation of the scheme for opening the land office, (a scheme more munificent than prudent in the design, or beneficial in its consequences, either to the public or to individuals,) it readily occurred to all men, that, while the soldier was yet in the field, fighting the battles of his country, and long before the war might be brought to an end, (though the happy result was then confidently anticipated.) *all the most valuable* lands the State had to dispose of might be selected, located, and appropriated by others, who, *not* tied by military engagements, were free to follow the promptings of enterprise and adventure, and to carve their fortunes out of so vast a field of opulence, as soon as it should be opened. This consideration was, I believe, urged upon the attention of the Legislature by a memorial of the officers and soldiers; and, whether or not, it was this consideration certainly which induced the resolution adopted in December, 1778, shortly before the act for opening the land office was passed, to reserve for the military bounties a particular tract of country, bounded by Green river, the Cumberland mountain, the Carolina line, the Tennessee, and the Ohio. (*a*)

"The same consideration, sir, led to the provisions concerning the military land bounties, which were inserted in the act of May, 1779, for opening the land office, and ascertaining the manner of granting waste and unappropriated lands—provisions very peculiar, and demanding very particular attention. That act, reciting that a certain bounty in lands had been engaged to the troops upon continental and State establishment, enacted that the officers and soldiers thereof should be entitled to the quantity of waste or unappropriated lands respectively engaged to them, upon certificate of the fact of military *service*, to be granted by their commanding officers, and authenticated in the county courts, in a mode prescribed by the act. And though provision was made for the issuing of warrants upon military as well as treasury rights, and that military as well as treasury warrants might

(*a*) See resolution agreed to by both Houses, December 19, 1778—MS.

be laid upon the vacant lands, other than those reserved for the bounties; yet all entries and locations upon treasury warrants, and (for the present) upon military warrants, too, in the tracts of country reserved for bounties by the resolution of December, 1778, were carefully inhibited. (*b*) That was kept untouched, to give each and all a fair and equal chance.

"We trace to the same just and considerate policy the act of October, 1779, for more effectually securing to the officers and soldiers, State and continental, the lands reserved to them, which declared that the tract of country before described had been reserved to them, to give them *choice of good lands*, not only for the public bounty due them for military *service*, but in their private adventures of citizens; enacted very strong provisions to remove from the lands reserved all who had already settled on them, and to prevent future settlements; and ascertained the exact quantity of land to which each officer (according to rank) and every soldier should be entitled. (*c*) The object was, to reserve the whole tract of country, to fulfil the promise of military bounties; to give each and all *a choice of good lands for bounties*, and even a pre emption of good lands in their private adventures. As yet, however, no provision was made for apportioning the reserved lands among them; they were yet in the field fighting for the public weal, and securely trusting to the public justice and wisdom to guard their private rights.

"Pursuing still the same policy (of providing not merely land, but *good* land, and choice of the *best* for the military bounties,) the legislature, in November, 1781, passed the act which presents the particular subject of my mission. That act, reciting that part of the tract allotted for the bounties by previous laws, had, upon the extension of the Carolina boundary, fallen to that State, substituted in lieu of the part of the former reserve, so taken away and subjected in like manner to the claims for bounties, the tract of country included within the Mississippi, Ohio, Tennessee, and the Carolina boundary; and further, authorized the Executive to appoint surveyors, and the *officers* to make a deputation from their *own body*, to execute and superintend the laying off the lands; empowered the superintendents to choose and direct surveys of the *best* lands in the reserve, and, after the surveys, to distribute them by lot to the claimants; and empowered the claimants to locate the shares so to be allotted to them, as soon as they pleased. (*d*) The selection, the surveys, the distribution by lot, were to precede the location. At this time, Lord Cornwallis's army had been captured, and the war began to languish.

"In another act, passed in May, 1782, to quiet all discontents and apprehensions in the army concerning the land bounty, this very particular and strong provision was enacted,—that any officer or soldier, who had not been cashiered or superseded, and who had served the term of three years successively, should have an absolute, unconditional title to his respective apportionment of the land appropriated for bounties; and that no surveyor should be permitted to receive any location, upon any warrant, for lands within the reserved tract, until the draught and apportionment should be completed according to the act of November, 1781. (*e*) Here again, as in

(*b*) 2 Revised Code of Virginia Laws, app. II. c. 5, §. 2, 3, pp. 366–369.
(*c*) Id. c. 8, p. 377.
(*d*) Id. c. 20, p. 390.
(*e*) Id. c. 22, §. 8, 9, 10, p. 395–6.

the general land law of May, 1779, the soldier's title is made to depend on the mere fact of *service*—not upon survey, not upon location, not upon entry, not (expressly) even upon his warrant; that title is declared to be absolute, and the reserved lands are declared to be appropriated to satisfy the bounties.

"Peace had now dawned, and the army, though not yet disbanded, was no longer active. In October, 1783, was passed the act for the better locating and surveying the lands *given by law* (that is the expression) to the officers and soldiers, under which the actual location of them was attempted. For that purpose, the act authorized certain deputations of officers of the State and continental lines, respectively, to appoint superintendents on behalf of each line, or jointly, and surveyors, to direct, regulate, and execute the survey of the lands appropriated by law for the military bounties; and directed that the holders of military warrants should deliver them to the surveyors on or before the 15th of March, 1784; that warrants delivered before that date, should be first surveyed, (determining the priority between them by lot) and warrants delivered on or subsequent to it, in the order of priority of delivery; that the claimants might attend in person, or by agent, to the location and survey of their portions; and that the locations and surveys of such as should not attend, should be made under the direction of the superintendents; that the surveyors, under the direction of the superintendents, and of the claimants according to their priority, should proceed to survey, in the first place, all the good lands (to be judged of by the superintendents) in the tract of country lying on the Cumberland and Tennessee, and then those on the northwest of the Ohio, between the Scioto and Little Miami, until the deficiencies should be fully and amply made up—saving whatever lands might happen to be left, within the tract of country reserved for the army, on this side of the Ohio and Mississippi; subject to the order and particular disposition of the legislature, saving only such residue, no more. In fine, to enable the superintendents to accomplish the locations and surveys, the Executive was required to furnish them with military aid from Kentucky, not exceeding one hundred men *(f)*

"Such is the series of the laws of Virginia, on which the claim of the officers and soldiers, to have satisfaction of their bounties out of the *choice* lands of the tract reserved and appropriated for the purpose, is founded."

It is fair to presume, that after peace was proclaimed, and we had attained our independence, many officers and soldiers at that time, or before, having served out the time of their enlistment, had returned to the busy every day scenes of life, either with the desire to renovate their fortunes, or to reap some of those blessings for which they had so long toiled on the field of battle. When we reflect upon the restless, inquisitive, and roving disposition of the citizens of the United States at that early period, and bear in mind, too, the important fact, that a vast number of those entitled had either been detained in remote places as prisoners, or had died, or been killed in the course of the arduous and eventful struggle from which the country had just emerged with flying colors, we cannot fail to perceive additional causes why a great many clearly entitled might, and no doubt did, delay urging their claims. In connexion with these facts, it is proper to keep in

(*f*) Id. c. 30, p. 403.

mind the notoriously low prices at which western lands were selling, as well as the comparative trouble and cost of perfecting the claims, on account of the distance, death, or removals of some of the parties, whose testimony might be deemed material.

During that period we had no railroads or canals, nôr even good roads, to facilitate communications from one quarter of the country to the other. The public mails presented, too, a most imperfect medium of conveying intelligence. Having, moreover, just severed our connexion with the parent country, and society in all of its ramifications being necessarily diverted, by passing events, from its established usages and customs, and the people impelled as they were by new springs of action, and burning with all the ardor and zeal which their splendid achievements were so justly calculated to excite, naturally became careless about pressing their demands against a government which they had the best reasons for believing was both willing and ready at any moment to pay all that might be legitimately due them. To these natural and extensive sources of delay, others may be cited, perhaps equally potential. The State of Virginia having set apart certain portions of territory to satisfy her bounty land claims, it was to be expected that those first applying for their warrants would locate them on the best and most desirable lands allotted for that purpose. As the *good* lands diminished, we find another element entering into the calculations of those who had not already brought forward their claims; and well might this influence those who had other difficulties to contend with. But still further impediments intervened. These are forcibly stated in a report to the Virginia House of Delegates, as follows, viz:

"In the year 1784, the superintendent, appointed by the deputation of officers, proceeded to Kentucky for the purpose of laying off and surveying the lands in the military district of the Kentucky reserve, but found them in the possession of the Indians, and claimed by them. The settlers in that country earnestly represented to the Legislature of Virginia, that, if the surveys were persisted in, the infant and defenceless settlements in Kentucky would be involved in all the horrors and calamities of an Indian war. Accordingly, at the October session of 1784, the Legislature authorized the Governor of Virginia 'to suspend, for such time as he may think the tranquillity of the government may require, the surveying or taking possession of those lands which lie on the northwest side of the river Ohio, or below the mouth of the river Tennessee, and which have been reserved for the officers and soldiers of the Virginia line and the Illinois regiment.'—(See Hen. Stat. at Large, vol. ii, p. 447.) In pursuance of this authority, the Governor of Virginia, on the 6th of January, 1785, issued his proclamation suspending the surveys. Thus Virginia, by her own act, put it out of the power of her officers and soldiers, after the 6th of January, 1785, to locate their warrants. This inhibition by the State authority continued until the 10th of January, 1786, when the prohibition was continued by the act of the General Government. At that date, the treaty of Hopewell was concluded between the United States and the Chickasaw Indians, 'guarantying to the Indians, as part of their habitation and hunting ground, all the lands below the Tennessee river; and providing that if any citizen of the United States, or any person not being an Indian, shall attempt to settle on any of the lands thereby allotted the Chickasaws to live and to hunt on, *such person shall forfeit the protection of the United States of America, and the Chickasaws may punish him*

or not, as they please.'—(See Mr. Johnson's report in the Journal of 1821–'22, p. 4 of the report.) The treaty of Hopewell existed in force until the year 1818, when the Indian title was extinguished. After that period, Kentucky would not permit the location of military warrants to be made."

From this statement, (the general accuracy of which cannot be successfully controverted, even in the estimation of the most prejudiced,) three obstacles are presented, of no ordinary difficulty. First, the action of Virginia in her humane efforts to protect the infant settlement of Kentucky: secondly, the action of the Federal Government; and, finally, the action of the State of Kentucky. To impair the just importance of these impediments, it has been alleged that Virginia *acquiesced*, as she certainly should have done, in the treaty of Hopewell. Will any man claiming to be a patriot taunt Virginia with that, or use it as a pretext to weaken the force of the claims now due? In the second place, it is urged that "for ten years, from 1782 to 1792, the officers and soldiers of the *State* line had full and *uninterrupted* opportunity to procure the allowance of their bounties, and to obtain satisfaction of their warrants in Kentucky. The State of Virginia was so *well advised* that *all* the *good* claims *had* been presented, that she *voluntarily relinquished* to the State of Kentucky *all* the lands which she had *reserved* for their satisfaction, being *more* than 6,000,000 acres. The Legislature which voluntarily made this relinquishment must have well understood the subject about which they were legislating. If they had *not* been *entirely* satisfied that the *good* claims *had* been exhausted, it is *not* to be supposed they would thus have deprived the claimants of the *means* of satisfying them." We will not imitate the example of Mr. Hall, and prematurely use the courteous language of his report, and brand the "assertion" just quoted "as palpably untrue;" yet facts will be produced, and speculations should be tested by them. We will leave the intelligent reader, unaided by our suggestions, to draw his own deductions.

The military reserves of lands in Kentucky for the satisfaction of the land bounties promised by Virginia to her *State* and *continental* lines consisted, at first, of the land lying between Green and Tennessee rivers, from the Allegany mountain, to the Ohio, (except the tract at the mouth of Green river, which had been granted to Richard Henderson & Co.,) to which was subsequently added the land included within the rivers Mississippi, Ohio, and Tennessee, and the North Carolina boundary. And then, in the act of cession of the territory northwest of the Ohio to the United States, 150,000 acres of land were reserved for Col. Clarke, and the other officers and soldiers of the Illinois regiment, to be laid off where a majority of the officers should think proper; and all the lands between the Scioto and the Little Miami were reserved to make good any deficiency of *good lands* in the military reserves in Kentucky, to satisfy the bounties of the *continental* line. By an arrangement between the continental and the State line, that part of the military reserve in Kentucky which lies in the peninsula between the Tennessee and Mississippi was appropriated, together with a tract this side of the Tennessee, to the satisfaction of the land bounties of the State line; the peninsula was deemed by far the more valuable of the two tracts upon which the claims of the *State* line were thus thrown. But the Indian title to this tract of country had not been extinguished, and the claimants of the *State* line could not proceed—and indeed were expressly prohibited from proceeding—to locate and survey their several shares under their warrants; so that many of their warrants actually taken out remained

unsatisfied, and many of the claimants omitted to get warrants. In this state of things, the separation took place between Virginia and Kentucky under a compact, (1 Rev. Code, ch. 19, pp. 60, 67,) the third article of which provided "that all private rights and interests in lands within the said district, (Kentucky,) derived from the laws of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed State, and shall be determined by the laws now existing in this State, (Virginia;) and the 6th article, "that the unlocated lands within the said district, which stand appropriated to individuals or description of individuals by the laws of this Commonwealth, shall be exempt from the disposition of the proposed State, and shall remain subject to be disposed of by the Commonwealth of Virginia, according to such appropriation, until the 1st May, 1792, and no longer; thereafter, the residue of all lands remaining within the limits of the said district shall be subject to the disposition of the proposed State." Shortly after the creation of Kentucky into a separate State, and after the 1st May, 1792, she passed a law prohibiting the location of any Virginia military land warrant on the military reserves. The Indian title to that part of the reserve that lies between the Tennessee and Mississippi was not extinguished till 1818, and then the *State* line claimed satisfaction of their land bounty warrants out of that tract of country; but they found themselves interdicted by the statute of Kentucky, above mentioned, from proceeding to appropriate the land bounties to themselves in severalty.

Virginia insisted that, by *the peculiar provisions of the land-bounty laws*, the military reserve was actually granted and appropriated to her officers and soldiers as tenants in common, and nothing remained but to make partition thereof among them in their just proportions; that the military land bounties were private rights and interests (vested rights and interests) in lands derived from the laws of Virginia prior to the separation, and so were rights and interests within the description of the third article of the compact, and valid and secured to the claimants; or, if not, that as the claimants had been prevented from making particular locations by the existence of the Indian title until 1818, they ought, on every consideration of justice and equity, to be allowed to make their locations within a reasonable time after the extinguishment of the Indian title. Kentucky contended that the military reserves were unlocated lands which had been appropriated to a description of individuals, within the meaning of the 6th article of the compact, which might have been located under the military land warrants before the 1st May, 1792, but of which Kentucky had a right, by the express terms of this article, to prohibit the location under these warrants after that date, and to dispose of them as she thought proper.

Kentucky had also enacted a system of laws, called the *occupying claimant laws;* of which Virginia, in her political capacity, never had complained; but the Supreme Court of the United States had intimated an opinion that those laws were contrary to the compact between Virginia and Kentucky, and therefore null and void. In the winter of 1821–'22, Kentucky sent Mr. Clay and Mr. Bibb as commissioners to Virginia, in order to procure from the Legislature of Virginia its assent to a construction of the compact which would sanction those laws; or, if it should think proper not to yield such assent, to ask a reference of that question to arbitration under the 8th article of the compact; but the commissioners had no authority to settle the controverted question concerning the unsatisfied claims for military land bounties. The Legislature of Virginia declined the propositions made by

the commissioners of Kentucky touching the occupying claimant laws; and in the spring of 1822 deputed Mr. B. W. Leigh to Kentucky, to ask that she should, by law, authorize the unsatisfied claimants of military land bounties to locate their military warrants on the reserve between the Tennessee and Mississippi; or, if she should refuse to do so, then to refer this point of controversy, and the question as to the validity of the occupying claimant laws, both at the same time, to arbitration. Kentucky promptly assented to the arbitration of both the subjects of controversy. And a convention was entered into between Mr. Clay, who was appointed commissioner on the part of Kentucky for the purpose, and Mr. Leigh as commissioner for Virginia, for submitting both subjects of controversy to arbitration. This convention was ratified by the Legislature of Kentucky. The House of Delegates of Virginia voted a ratification of it, but the Senate would *not* concur in the ratification.

This submission to arbitration not being ratified by Virginia, no arbitration took place, or was ever afterwards proposed. Consequently, Kentucky continued to hold the lands of the military reserve, and the unsatisfied claimants of the military land bounties remained without hope of satisfaction out of those lands.

We invite attention to the annexed extracts from Mr. B. W. Leigh's speech, commissioner from Virginia, on the subject of the military land claims, delivered before the Legislature of Kentucky on the 17th of May, 1822:

"When the superintendents came to Kentucky, in 1784, to lay out and survey the lands according to the act of October, 1783, they found that all the lands on the Tennessee, and between that river and the Mississippi, were claimed by the Indians, and in their possession. They called in vain for the military aid they were authorized to require of their fellow-citizens of Kentucky: men could not leave their homes and their families defenceless, exposed to the devastation, the extermination, and all the nameless horrors of savage warfare. Their excuse was founded on an imperious necessity, which no authority could control; (*h*) yet, without such aid, it was utterly impracticable to explore the country below the Tennessee, and thus acquire that information of its topography so essential to certainty of location. All was done, however, that could be done: the warrants were numbered; and in virtue of part of them, during the summer of 1784, entries were made for the State line, of lands lying below the Tennessee, to the amount of about 261,000 acres, according to such vague information as the superintendents and surveyors possessed or could collect. A large portion of the warrants were never located at all. To survey was impracticable, and it was never attempted. Even the process of location was soon suspended.

"In October, 1784, the Legislature, upon the recommendation of the Governor, supported by information previously received, and then communicated by him, (*i*) of the danger of provoking Indian hostilities all along the western frontier of the United States, authorized the Executive to suspend the surveying and taking possession of the lands reserved for military bounties

(*h*) See message of Governor Harrison to the Assembly, of June 12, 1784; and letter of General Muhlenberg to Governor H., of April 25, 1784—MSS.

(*i*) Extract of message of Governor Harrison to the Assembly, of October 18, 1784; and letter of Mr. Hardy, member of Congress, to the Governor, of August 3, 1784—MSS.

northwest of the Ohio, and on this side below the Tennessee. (*j*) But at the same session, while it was required that all other entries made in the county surveyor's books should be surveyed, and the surveys returned on or before the 1st of February, 1786, and that all future surveys should be made and the surveys returned within one year from the date of the entry,—the entries made in virtue of claims for military services were cautiously excepted out of this provision. (*k*) They were not straitened by any limitation of time.

"A proclamation was promptly issued by the Executive, suspending the operations of the military claimants, their superintendents and surveyors, in both the specified tracts of country; (*l*) and though this inhibition was revoked in 1787, so far as it regarded the country beyond the Ohio, yet it never was revoked as to the country below the Tennessee on this side. (*m*) For, in the mean time, the whole of this tract was allotted by the treaty of Hopewell of January, 1786, to the Chickasaws and Cherokees, to live and hunt on; and the possession of it guarantied to them by a provision, that, if any of our citizens should encroach upon it, they should forfeit the protection of the United States, and the Indians might punish them, or not, as they pleased. (*n*) Nor was the Indian title ever extinguished until the year 1818. (*o*)

"Thus, then, at the time of the separation of Kentucky from Virginia, the tract of country below the Tennessee stood reserved, by law, for military bounties—assigned, by consent, for the bounties of the State line; only a small part of it located; none surveyed; the actual locations, probably, very imperfect; many warrants not located at all; and the claimants prevented, as well by the law of Virginia, as by the treaty of Hopewell, from making surveys and further locations, but (as was most just) restricted to no limit of time, and free to proceed whenever the impediment should be removed.

"If, sir, the rights of the unsatisfied military claimants against Kentucky, and her obligations in regard to them, were to be decided by general principles of justice, without reference to the particular convention between Kentucky and Virginia, our question would be soon answered. Whatever rights those claimants might have justly asserted against Virginia, had she retained the sovereignty, they may now, with equal justice, assert against Kentucky; and if Virginia could not rightfully have defeated them, no more can Kentucky. But the question does not depend altogether on general principles; it depends, mainly, on the particular terms of the compact between the two States. It will be strange, if it shall prove true that stipulations, inserted in that compact for the sole purpose of securing to the military claimants their rights in the military reserve, according to its original appropriation by law, against the power of either State, do, in effect, concede to Kentucky an authority which Virginia had no right to exercise nor, therefore, to concede—to abrogate and annul those very rights.

"Before we proceed to consider the article of the compact that relates particularly to the military reserve—that article under which Kentucky now claims an absolute power to dispose of all that land which remained unlo-

(*j*) 2 Revised Code Virginia Laws, appendix II, c. 40, p. 418.
(*k*) Id. c. 39, sec. 2, p. 418.
(*l*) Advice of Council, of January 6, 1785—MS.
(*m*) Advice of Council, of January 25, 1786—MS.
(*n*) See treaties of Hopewell, of November 28, 1785, and of January 10, 1786, 2 vol. Laws United States, old edition, pp. 343, 361.
(*o*) See the treaty.

cated on the 1st of May, 1792—let us bestow a brief consideration on the first article I quoted. If the representation I have laid before you, of the nature of the right conferred by the laws of Virginia on the military claimants to the whole tract of country reserved for the military bounties, be just; if the whole of it was plainly and indefeasibly given, appropriated and assured to all the claimants; if each claimant's title to his respective share depended on the mere fact of service, without necessity of location, survey, or patent; if that title was absolute and unconditional; if the Commonwealth pretended no beneficiary claim, but to the residuum after all the bounties were duly satisfied; if, by virtue of the legislative grant, the military claimants were equitable tenants in common, and each entitled to his undivided share of the whole reserve; if the Commonwealth was but their trustee, bound to preserve the property for them, and authorized to regulate the apportionment or partition of it among them; if the military warrant ascertained the fact of service, and therefore vested in the holder an absolute unconditional title to his respective share,—then the *laws* vested in *all* the claimants a right and interest in the *whole* military reserve, and the *warrant* vested in *each* a right and interest to his *undivided share* of it. And these are 'private rights and interests in lands in Kentucky, derived from the laws of Virginia prior to the separation,' such as the compact provides 'shall remain valid and secure under the laws of Kentucky, and shall be determined by the laws then existing in Virginia.' The private rights and interests intended to be secured, were certainly not only titles in lands specifically appropriated to single individuals, regularly and definitely ascertained and perfected, but all private rights and interests, of what nature or kind soever, inchoate or consummate, joint or several, legal or equitable. Such is the plain broad import of the words; and such has been the contemporaneous, undoubted, constant, practical construction of them received in both States. In this respect, there never has been any difference of opinion concerning the meaning of the article.

"But it has been thought, that the article of the compact which relates expressly and particularly to the military reserve, is the one that materially (if not only) affects our present question: that the stipulation 'that the unlocated lands in Kentucky which stood appropriated by the laws of Virginia to descriptions of individuals for military services, should be exempt from the disposition of Kentucky, and remain subject to be disposed of by Virginia, according to such appropriation, until the 1st of May, 1792, and no longer; and thereafter, the residue of all lands remaining in Kentucky should be subject to the disposition of this State," conferred on Kentucky the absolute right to dispose of all the lands of the military reserve which might remain *unlocated* at that date by military warrants, according to the original appropriation.

"To give this stipulation that effect, it must be maintained that the temporary power of disposition, thereby intended to be reserved to Virginia, was a disposition to be effected by actual location anterior to the appointed date. The article must be understood as if it read thus: 'The unlocated lands which stand appropriated by the laws of Virginia to her soldiers, for bounties, shall be subject *to be located under the authority of Virginia*, according to such appropriation,' &c.; and if such had been the meaning, that had probably been the language—so familiar is the phrase, and the idea, and the legal effect of location to all men's minds at all versed in the land laws common to both States. But that is not the language. The military re-

serve was to remain subject to be *disposed* of by Virginia. How? '*According to the legal appropriation*'—to the *persons* to whom it was appropriated by law, and in the *manner* provided by law for the disposition of it among them. Now, sir, the laws had appropriated, given, secured, the whole military reserve to the whole body of military claimants; the laws contained the grant; required neither patent, survey, location, nor entry, to perfect the common title; made each man's title to his respective apportionment, his undivided share, depend on the mere fact of service; declared such title absolute and unconditional. The *warrant*, therefore—that document which ascertained the fact of service on which the title of each individual depended, and his exact share—the *warrant* amounted to a complete disposition, according to that manner of disposition provided by the laws which made the appropriation—to grant the warrant—to make such disposition as granting the warrant would effect. This was the temporary power of disposition of the unlocated lands which Virginia reserved to herself.

"Many considerations combine to confirm the justness of the construction I contend for.

"At the time this compact was formed between Virginia and Kentucky, it could not have been unknown to either party, or absent from her mind, that, as to that part of the military reserve which lies below the Tennessee, the provisions of the treaty of Hopewell prohibited all location of it by military warrants, and all other rights whatever; and that tract had been assigned to the State line; and that many of them looked to it chiefly, if not entirely, for the satisfaction of their bounties. Neither was there any probability, much more any certainty, that the Indian title would be extinguished as early as May, 1792—the period limited for the disposition of it under the power retained to Virginia. To reserve a power to dispose of it, *in virtue of actual location in the interval*, had been to reserve a power which, in all likelihood, would be wholly nugatory; and the reservation of the power had been only a device to color, with some show of decency, a wilful surrender of the rights of the military claimants; of which no man can suspect either Virginia or Kentucky.

"Again: Virginia could have had no reason for desiring that the locations and surveys of the military reserve should be made under the authority of her own laws, and by the instrumentality of her own agents, rather than those of Kentucky; that the surveys should be returned to her own land office, and the evidence of entries, locations, and surveys preserved among her own archives. On the contrary, it had been highly inconvenient that those muniments of incipient title to particular parcels of land in Kentucky, which never could be wanting in any but a Kentucky court of justice, should be kept in Virginia. But there was abundant reason that Virginia, for the sake of the military claimants—that Kentucky, for the sake of the residuum to which she would be entitled after the claimants were satisfied—should both desire that the military *warrants* should emanate from Virginia, and be authenticated by her authority. In Virginia, there was a system already organized for ascertaining the fact of service, and issuing the warrant; there the rights of each, according to his rank, could be most readily ascertained and adjusted; thither the surviving soldier of the Revolution—especially the soldier of the State line—had most probably returned after the war, to spend the remainder of his days; there lived the widows and orphans of such as had fallen in battle: and there the evidence would most probably be found, and most easily produced, upon which the warrant was to be founded.

"In point of fact, too, Virginia never thought of exercising, in the interval between your separation from her and May, 1792, the power she had retained to dispose of the military reserve lying below the Tennessee, in any other manner than by issuing the military warrants. Had Virginia apprehended that any other exercise of the power was necessary to secure the rights of those in trust for whom she retained it; had the military claimants apprehended what has since happened, that Kentucky would deny their rights, they would have asked of the legislature, and it would have been within its competency, and its bounden duty, to enact a law making such a disposition of the military reserve according to its original appropriation, to operate as soon as the Indian title should be extinguished, as would have left no doubt behind; a law *bona fide* confined to the just satisfaction of the military claimants, and leaving to Kentucky the residuum after they should be satisfied. Neither Virginia nor the claimants, however, thought of any such measure; *they* thought that a *disposition* was made, when the *warrant* was issued.

"I pray you, sir, to consider what it is that the article under examination concedes to Kentucky the power to dispose of? It is not the *residue* of the *military reserve* only, but the residue of *all vacant lands* within her bounds; not the residue of the military reserve that should remain *unlocated*, but the *residue* which should remain undisposed of by Virginia on the 1st May, 1792. To understand the force of this word *residue*, as used in this article, and as it applies to the military reserve, it is necessary to revert to the laws of Virginia concerning the military lands. The act of October, 1779, had declared that the military district had been reserved to the officers and soldiers, 'to give them choice of good lands, not only for the public bounty due them for military service, *but in their private adventures as citizens*.' Their right to *satisfaction of their bounties*, out of the reserved lands, was ever considered vested, specific, and irrevocable; the right of pre-emption *in their private adventures as citizens* was regarded as a vague gratuity, which the commonwealth might honestly resume. Accordingly, the act of October, 1783, after making provision for the satisfaction of the bounties, '*saves* whatever might happen to be left, *subject to the order and particular disposition of the legislature*.' This *residue* was all that Virginia claimed a right to dispose of; and even that claim was founded on a resumption of the pre-emption right given by the act of October, 1779. This *residue* was all that Virginia could rightfully grant to Kentucky a power to dispose of. This *residue* was all that Kentucky expected, and (as I will presently prove, by the solemn act of her own convention) all she asked. Compare the article of the compact under examination, with the laws just mentioned; and it will be apparent that, if Kentucky gets what remains of the military reserve after the military bounties are fully satisfied, she gets all that article concedes to her.

"I am aware of only one objection to the construction of this article of the compact, which I contend for, considering it only in reference to the laws relating to the military reserve. I say that the temporary power of disposition retained to Virginia, was executed according to its true meaning by the issue of the military warrant. It may be objected to me, that, as the temporary power retained to Virginia, is '*to dispose of*' the lands in the prescribed interval, and as the residuary power conceded to Kentucky is couched in the same phrase—a power '*to dispose of*' the residue, subsequently—the same phrase must have the same meaning in both instances;

and as the residuary power of disposition, conceded to Kentucky, was doubtless intended to be exercised in the usual way of location, survey, and patent, therefore the temporary power of disposition, retained to Virginia, was intended to be exercised in the same manner. But the objection is only plausible. The residuary power of disposition is conceded to Kentucky, without any qualification, to be exercised according to her wisdom or her pleasure; whereas the temporary power of disposition retained to Virginia was to be exercised with this qualification—that it should be *according to the legal appropriation;* and if the laws made the *warrant* a disposition, (as I insist they did,) the warrant was the precise method of disposition which the compact had in view.

"But, sir, I have been informed that the absolute right, now claimed for Kentucky, to dispose of the military reserve without regard to the unsatisfied military warrants, is supposed to be manifested by the history of the laws of Virginia relating to the independence of Kentucky.

"The first law on the subject was passed in 1785, and is substantially the same with the last act of December, 1789, only the prospective dates are different. (*u*) The separation not being accomplished under the first act, a second was passed in December, 1788, in which the article touching the military reserve stood thus: 'That the unlocated lands in Kentucky, which stood appropriated, by the laws of Virginia, to individuals or descriptions of individuals, for military or other services, should be exempt from the disposition of Kentucky, and should remain subject to be disposed of by Virginia, according to such appropriation, *until the Congress of the United States should receive Kentucky into the Union;* and thereafter the residue of all lands remaining in Kentucky should be subject to her disposition, saving and reserving to the officers and soldiers of the Virginia line in the State and continental establishments, their representatives and agents, *their rights to lands* under the several *donations* of Virginia, which should not be *restrained or limited as to time* in making their prospective locations, and completing their surveys, by anything in this act contained, nor by any act of Kentucky, without the future consent of the Legislature of Virginia.' (*v*) The convention of Kentucky, assembling under this act, presented a memorial to the Legislature of Virginia, in which, 'acknowledging, with gratitude, its generous and disinterested conduct' in regard to the wishes of Kentucky, and 'relying on its justice and generosity,' the convention complained that the terms offered by this act were 'materially different' from those proposed by the act of 1785—'that the alteration in one of the terms was more particularly injurious to Kentucky, as it *forever precluded* her, though declared an independent and sovereign State, from exercising her *right of sovereignty* over part of the lands contained in her boundaries, *without the consent of Virginia*—a situation *degrading* to Kentucky, as she would thereby not be on an equal footing with the other States in the Union; and *injurious*, as it would prevent her from making advantage of the *surplus lands* within her boundaries, which she was in equity entitled to.' (*w*) This complaint was pointed against the too straight and jealous *saving*, introduced into the act of 1788, in favor of the military claimants. Virginia yielded without difficulty or hesitation; and

(*u*) See copy of act of 1785—MS.
(*v*) See copy of act of December, 1788—MS.
(*w*) See copy of memorial—MS.

in the last and efficacious act of December, 1789, adverting to the memorial from Kentucky, and reciting that it had been represented that the act of 1788 contained terms materially different from those of the act of 1785, which were found incompatible with the real views of Virginia, as well as injurious to the good people of Kentucky, (x) she retracted the offensive *saving* in favor of the military claimants. And from this retraction, it has been precipitately inferred that Virginia knew (and so intended) that, by the article as it stood in the act of 1785, and as it stands in the act of 1789, an absolute power was conceded to Kentucky to dispose of all the lands of the military reserve which should remain unlocated under the authority of Virginia within the appointed time, without regard to the rights of the military claimants.

"What did the memorial of Kentucky complain of? What did it claim as that to which she was in equity entitled? Did it complain that this new *saving* treated the military claims as '*rights to lands*'—'rights conferred by the *several donations*' of Virginia? No. Did it claim for Kentucky any beneficiary property, but in the 'surplus,' over and above the bounties? No. Kentucky complained that the new *saving* restricted her '*sovereignty*' as unnecessarily as injuriously; that it did not concede to her the same rights over the military reserve, that Virginia had; that it prevented her from holding the military claimants to any limit of time for the assertion of their rights, which it had been within the competency of Virginia to impose; that thus it forever precluded her from ascertaining the surplus which would be left after satisfying those rights, which '*surplus*,' and no more, she claimed the advantage of, as that to which she was '*in equity entitled*.' The complaint was most reasonable and just. The *saving* was dictated by some too zealous, perhaps too jealous, friend of the military claimants; it disparaged the very *sovereignty* of Kentucky over the military reserve, which Virginia meant to cede without reservation; it debarred her from that *residuary right of property* in it, which belonged to Virginia, and which she had the right, and certainly intended to cede; above all, it showed an unworthy distrust of Kentucky. It would have been ungenerous in Virginia to insist on the *saving*; Kentucky had been dishonored in assenting to it.

"Shall Kentucky now justify that distrust? Will she take advantage of this *saving clause*, which she represented as an injurious restriction of her sovereignty, and an unnecessary security of the military 'rights' derived from the 'donation' of Virginia, to do the very act, which the *saving* was intended to prevent—abrogate and annul the rights of the unsatisfied military claimants? Will she show Virginia that her generosity, so gratefully acknowledged—so solemnly, so successfully appealed to—was folly? Kentucky never meant, means not, cannot mean to do this. Virginia entertains now, no more than in 1789, any distrust of your good faith, your honor, your generosity. She believes that the policy of which she complains is attributable to a misapprehension on your part of the nature of the military rights, which could not be accurately understood without a minute examination of the laws that bestowed them, (private laws they were, never till lately published in our general code—perhaps hardly accessible,

(x.) See recital of act of December, 1719, 1 Revised Code, c. 19.

certainly not generally known, in Kentucky,) and to a consequent misapprehension of the compact between us, which could not be clearly understood without an accurate knowledge of the rights to which it related.

"If such be the true meaning of the compact, then it was most obvious that when Virginia reserved to herself temporary power to dispose of the unlocated lands, which stood appropriated by her laws for military bounties, according to such appropriation, by *means of actual location*, and conceded to Kentucky the power to dispose of the residue not *so* disposed of by Virginia within the time prescribed; the stipulation, in the understanding of both parties at the time, must have presupposed that it would be competent to Virginia that she would be capable in law to exercise the temporary power of disposition in the interval; and that those for whom the power was a trust, would be capable in law to take such measures as would entitle them to the benefit of it—in other words, *to make the necessary location;* otherwise, that stipulation, so far as it respects the power reserved to Virginia, and the benefit intended to the military claimants, would have been utterly nugatory. But in the event Virginia was prevented from exercising the power, and the claimants were prevented from doing the acts on which the power was to operate; all locations being interdicted by the still continuing provisions of the treaty of Hopewell—an authority paramount not only to the claimants, but to Virginia and Kentucky too. If Virginia had authorized the location in spite of the treaty, she would both have violated her obligations to the federal head, and have done an injury to Kentucky, of which the latter might, and no doubt would, have complained; she would have lighted the torch of savage war on your borders, and evinced such a criminal indifference to your peace and happiness, as would have made her the just object of your detestation. If the military claimants had thought fit to brave the vengeance of the Indians by an attempt to make a location of their lands, Kentucky, as sovereign of the territory, might, and would, and ought to have restrained them. You would then, indeed, have had a just right to confiscate their interest in the property, as a punishment for their crime. Will you infer an extinction of the power of Virginia to dispose of the military reserve, from her legal incapacity to exercise it? Will you infer a forfeiture of the rights of the military claimants, from their legal incapacity to pursue them? Will you make a forbearance, enjoined by duty, and required by a just regard to your own welfare, a ground of forfeiture? Is your equity so stern, so hard, so inflexible, that it will bend to no circumstances, be touched by no merit, allow no indulgence to uncontrollable accident, no excuse to obedience due and paid to the supreme law of the land? All states, and all men, acknowledge that obedience to law, like submission to the providential dispensations of God, excuses all defaults.

"I pray you, sir, cast your eyes back upon your own history, and reflect that if, in 1784, Virginia had not regarded the peace and safety of the parents from whom you sprung, and of your own helpless infancy, as paramount to a prompt dispensation of justice to the soldiers who achieved her independence, all their warrants might have been located at that early day, and Virginia would not have stood now like a suitor at your bar, crying for a late and tardy justice: they would have had their due, and she would have been stained with your blood. And then, if you can, shut your ears o her intercession.

"But if, after all, sir, I have failed to convince you that our claims are

reasonable and just; that it is your duty, and even your interest, to yield to them at once, and accord us full satisfaction by your own act; yet I think I must have satisfied you that Virginia sets up, in this instance, no *idle* pretensions, wholly *unfounded* in reason, and unworthy of her dignity; that the questions growing out of the military land claims are (to say the least) *difficult* and doubtful; and that there is a *serious* difference of *opinion* concerning the *construction* of the third and sixth articles of the compact between us, and a *difference* between the *two* States in their *sovereign* capacities. This can be *denied* by *no* man—whatever may be his opinion of the merits of the controversy—that a controversy exists. You *must* know, too, that there is *no* existing judicial *tribunal*, or tribunal of *any* kind, *competent* to entertain the controversy. It is *impossible* that the *claimants* themselves shall ever make a *judicial* case of *their* claims; and *if* they could, *Kentucky cannot be made party defendant*, either in the national courts of justice, or in her own."

But Mr. Hall, in another part of his report, when alluding to the compact between Virginia and Kentucky, and the erection of the latter into a State in 1792, roundly asserts, in his allusions to the reserved military lands, that "a great portion of this unincumbered land, lying *east* of the high lands dividing the Tennessee and Cumberland rivers, remaining unlocated, was among the *richest* and *most desirable* lands in Kentucky, from which that State, *since its relinquishment by Virginia*, has derived a *large* and *long* continued revenue."

This extraordinary declaration was either designed to convey the impression that a *great* portion of the military lands remaining unlocated in 1792, and lying east of the high lands dividing the Tennessee and Cumberland rivers, was held and deemed at *that* day, or before, as "among the richest and most desirable lands in Kentucky;" or it was intended to express the simple idea, that since its *relinquishment* by Virginia in 1792, the land alluded to *had* been highly valued, and that Kentucky, owing to this rapid appreciation, had for many years derived from it "a *large* and *long* continued revenue." If the author of the report selects the latter as the true exposition of his meaning,—why, he makes an assertion unsupported by fact or authority in one of its most material features; for it has never been admitted by Virginia that she relinquished the reserved military lands to Kentucky in 1792. It has already been shown that the compact between Virginia and Kentucky was differently interpreted; that Virginia continued, on behalf of her troops, to claim the lands under it, and that Kentucky denied those claims; and that the point had not yet been decided, and there was no good reason to believe it ever would be. But Mr. Hall may have intended to convey the idea that, *many* years *after* 1792, this land was considered valuable, and the Government, by selling it out, derived "a *large* and *long* continued revenue." Suppose the fact to be so: yet it goes *beyond* the point at bar, and therefore proves nothing. Virginia promised her troops *good* lands. She was bound, therefore, when she paid them, to allow them what was held and deemed by the people and warrant-holders at *that* day and time to be *good* lands. So any speculations or facts going to show that these reserved military lands in Kentucky, at some period *after* 1792, either mediate or remote, were *then* considered *good* and valuable lands, by no means proves that from 1784 up to 1792 they were by the public, or by purchasers, reputed or held in the *same* estimation. We

will, however, compare the modern speculations contained in the report, with the official statement made out by gentlemen, from personal knowledge and observation, and whose special duty it was to visit the country and examine into the facts as they *then* existed, and render an official statement to enlighten the country, so as thereby to save both individuals and the Government from unwise action or imprudent legislation.

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[American State Papers, Public Lands, vol. 1, page 6.]

RICHMOND, *November* 17, 1788.

SIR: We have received from the Executive a copy of a resolution of Congress, together with an order of council of the 4th of August last, requiring from the acting superintendents, appointed by law for locating and surveying the lands allotted to the officers and soldiers of the late army and State navy, a report of the quantity of good lands on the southeast side of the Ohio; whether all the good lands were located and surveyed before they proceeded to locate on the northwest side of the Ohio; how much has been located and surveyed on the southeast side for the Virginia troops on State establishment; how much for the Virginia troops on continental establishment, on the southeast side.

Without an actual survey of the whole of the country within the boundaries described by the laws reserving the lands on the southeast side of the Ohio, including that between the Tennessee and the Mississippi, it is impossible to ascertain the quantity contained therein, or the quantity allotted to each of the lines by the agreement above alluded to; but, from the best estimate we could make, it was adjudged that the *whole* country contained about *six* millions of acres, and the dividing line agreed on left, as was estimated, about *two* million five hundred thousand acres in that part allotted to the continental line, and about *three* million five hundred thousand to the State line; which, on our exploring it, was found to be *far inferior* in quality to what was expected, from the description that had been given of it—fully *one-third* of it being extensive open barrens, which are large tracts of land without timber, covered with a coarse sedge, and not more than *one-tenth* fit for cultivation; and a *great* proportion of the wood land mountainous, poor, and stony. It was estimated that not more than *one-third* of the *whole* could be called good land.

From this calculation, the quantity of *good* lands within the part allotted to the *continental* line would be *eight hundred and thirty-three thousand three hundred and thirty-three and one-third acres*, or thereabouts; from which considerably upwards of one hundred thousand acres is taken by the grant to William Henderson and company, at the mouth of Green river; and it appears, from the return made by the surveyor for the continental line, that *seven* hundred and twenty-four thousand forty-five and one-third acres *have* been located on those lands, some *part* of which has been located on lands of an *inferior quality*, by individuals, on account of salt-springs or other natural advantages. And from our own observations while engaged in the business, and from the best information, we are well assured that the *whole* of the *good* lands in that district *are* taken. From the estimation, it will appear that the quantity of *good* lands within the allotment to the *State line* would be *one million one hundred and sixty-six thousand six hundred and sixty-six and two-thirds acres*, or thereabouts;

of which, as appears from the report of the deputy surveyor of that line, *eight hundred and sixty-seven thousand six hundred and seventy-two and two-thirds acres have been located:* which *leave* one hundred and ninety-eight thousand nine hundred and ninety-four acres remaining *unlocated*, which, from the amount of warrants issued, will be no *more* than *sufficient* to answer the whole of these claims. Moreover, it is probable there will be a *great deficiency of good lands to the State line*, as near three hundred thousand acres of the lands between the Tennessee, (part of which were located by the superintendents) were covered with treasury warrants previous to that country being reserved to them by the Legislature in 1781—the right to which is now in dispute, depending, as we are informed, before the high court of appeals; and if it is decided in favor of the treasury claimants, the deficiency will, by so much, appear wanting to the military claimants.

Our locations on the southeast side of the Ohio commenced on or about the 1st of August, 1784; from which time the office was kept open, and the business continued until all the *good* lands in that country, within the continental boundary, which could be found, *were* located and entered on, to the amount before stated; and finding that there would be no more within the State boundary than sufficient to satisfy their claims, and a *great probability of a deficiency*, the locations on the northwest side commenced by the directions of the superintendents on the 1st day of August, 1787; and it appears by the report from the surveyor, that one million three hundred and ninety-five thousand three hundred and eighty-five and one-third acres have since been located in that country; and we beg leave to observe that it is our opinion, from the *extent* of the area of the reserved lands between the Scioto and Little Miami, *that there will be found a deficiency of good lands there* to satisfy the claims now to be located.

M. CARRINGTON,
A. PARKER,
R. ARCHER,
Superintendents for the continental line.

The Hon. BEVERLEY RANDOLPH, Esq.,
Lieutenant Governor of Virginia.

In further corroboration of the public estimation in which the unlocated military lands were held by the early settlers of Kentucky, we would respectfully draw public attention to the accompanying letters from one of her Representatives, the Hon. H. Grider, and from Mr. Thomas S. Page, Second Auditor of Kentucky:

WASHINGTON, *March* 27, 1844.

DEAR SIR: Yours of the 7th instant ought to have been answered long since. I am sorry I cannot give you more fully and definitely than I can the information required. My residence is north of Nashville, at Bowling Green, on Big Barren river, which, by reference to the map, you will see is in part of the territory referred to in your letter. I am not able to state from recollection, of course, so far back as 1792, or even 1800; but still,

from facts known to me since I have grown up, and from records and tradition, I can give you one fact almost notorious in my neighborhood; and that is, that the lands there, in the early settlement of the country, were misjudged as to value. The neighborhoods where there was timber and water were located; and the barrens, or half prairie, were left unappropriated, under the belief that they were of no value. But few military warrants (if any) were laid in the barrens, from the fact stated already; (their supposed want of value;) when, in fact, the barrens have proved to be the very best farming land. I speak of the tract of country on, and immediately south of, Green river. I think the State of Kentucky has received large amounts for the lands referred to, and I think sold the land out from $40 to $50 per hundred acres. Allow me to say, the auditor of public accounts in Kentucky could give the exact amount of revenue received; and by reference to the statutes of Kentucky, under the title "Lands," you will see the various prices. I feel, sir, that this letter must be unsatisfactory, and send it from a consideration that you expect it, rather than the hope it will be useful.

I am, very respectfully, yours, &c.,

H. GRIDER.

Hon. E. W. HUBARD.

AUDITOR'S OFFICE, KENTUCKY,
Frankfort, April 2, 1844.

DEAR SIR: Yours of the 27th of last month was received to-day; and I regret that the records and papers of this office do not afford that specific information you seem anxious to obtain. But with pleasure I herewith transmit such general information as I have on the subject of the land history of our State.

From 1792 to 1800, that portion of Kentucky east of the high lands between Tennessee and Cumberland rivers, and reserved for the officers and soldiers of the Virginia State and continental lines, was not held in much estimation by the early land speculators and settlers, owing to the fact of the fear of Indian hostility, and likewise a belief that all the good lands on the rivers and creeks had been appropriated by the military claims, and the remainder thereof was poor and barren. Kentucky valued them thus:

In 1795, valued at $30 per hundred acres;
In 1796, valued at $40 per hundred acres;
In 1800, valued at $20 per hundred acres.

The lands between the Cumberland and Tennessee rivers, within the limits of Kentucky, were always considered of but little value. Within the last thirty-five years, much of the barren land within the military boundary or district, before alluded to, has become valuable for the culture of tobacco, &c.; but the same land up to 1807 was deemed worthless.

The revenue derived from the sale of those lands during the periods aforesaid was but trifling; but I regret to say, from the loose manner in which the business of this office was conducted during that period, I am unable to give the exact sum. I would remark, that all the military claims were located on watercourses, and from a confident belief that the lands out from those streams were poor, (being as they were barren of

timber,) all the early surveyors and settlers so reported them; but time has proved they were mistaken.

With great respect, I am, sir, very respectfully,

THOMAS S. PAGE, *Second Auditor.*

Hon. E. W. HUBARD, *M. C.*

In the reports under consideration, (No. 436, 1st session of the 26th Congress; and No. 1063, 2d session of the 27th Congress,) strange as it may appear to the American people, and to the civilized world, yet they not only directly and unequivocally promulgate the doctrine, that though there are at present outstanding good and valid claims to military bounty land, nevertheless that this Government is not bound to provide for their payment. In palliation of this bold doctrine of *national repudiation*, it is not pretended that the United States is not bound, under the solemn sanctions and stipulations of the Virginia deed of cession, to liquidate all good and just claims of that description. On the contrary, while the committees sanctioning these reports, not only openly proclaim their willingness to disregard the most sacred obligations, but tax their ingenuity to persuade the Government to violate its plighted faith, they then assume, after advocating such extraordinary doctrines, the dignified function of unreservedly charging other public functionaries with culpable looseness in their official duties, and as being wanting in that fidelity to public trusts, which duty, no less than a sense of rectitude, should have prompted them to discountenance. Not only has this been done; but great zeal has been displayed—not, as might have been supposed, to evolve the facts in various individual cases, with the laudable view of rendering justice, but with the obvious intention of ferreting out whatever might sustain a plausible presentation of extravagant assumptions, derogatory to the justice and character of the claims, as well as of the individuals urging them. The great research and vast variety of references displayed in those reports, make it apparent that the opinions and conclusions arrived at emanated from a quarter capable, if willing, to do justice. In many instances, the adroitness and sophistry displayed in the reports induce the belief that they are rather the productions of an attorney battling before a court, to shield individuals against the importunities of their creditors, than expositions from a learned committee gravely undertaking to dispense even-handed justice. Successfully to carry out the system of repudiation as suggested by those reports, would involve a violation of positive engagement and good faith, wholly unknown to, and never heretofore sanctioned by, our Government. To make this more intelligible, a brief statement of the case will be given.

During the revolutionary war, the State of Virginia engaged, in part, on the urgent recommendation of Congress, to allow the land bounty in question to her officers, soldiers, and State navy. For the fulfilment of her plighted faith, a resolution was adopted by her Legislature on the 19th of December, 1778, appropriating all the lands lying between Green river, the Cumberland mountain, the North Carolina line, the Tennessee and Ohio rivers, exclusively for the purpose of satisfying the claims to military bounty; and in 1781 she added the lands lying south of Tennessee river, and between the Ohio and North Carolina line and the Mississippi. Thus

it is shown that, in order to guaranty a compliance with her engagement, the State *pledged directly a large portion of her domain, thereby creating an equitable lien* on that immense region.

At the close of the war, Virginia again, on the urgent appeal of Congress, surrendered to the United States by far the greatest portion of her western territory (a large portion of which had been conquered by her own unaided means) north and west of the river Ohio; out of which, at the lowest estimate, by far the larger portion of the States of Ohio, Indiana, Illinois, and Michigan, and the Territories of Wisconsin and Iowa, have been formed. At the time of making the cession, Virginia reserved, by probable estimate, as much land on the southeast side of the river Ohio as was deemed sufficient to satisfy the land bounties to be allowed to her officers and soldiers on her continental and State establishment, and of her navy. But, with the most praiseworthy desire of complying with her engagements to the uttermost farthing, and to place her ability beyond doubt, a reservation was made in her deed of cession to the United States, so that, in the event of a deficiency of good land on the southeast side of the Ohio river to satisfy the bounty due to the officers and soldiers on her continental establishment, the deficiency was to be made up by Congress in lands between the Scioto and Miami rivers. Such are the circumstances under which the deed of cession was made and accepted; and so obvious and equitable are its requisitions, that "it is difficult to find the semblance of an apology" for the conduct of those who, after applying the most deceptive and fallacious tests to destroy the validity of the remaining revolutionary land bounty claims, yet, not being able entirely to attain their object by such means, then suggested, in the conclusion of their report, "that the United States are under no obligation, either legal, *equitable*, or moral, to *satisfy* such few of the warrants as may be *well founded;* and they therefore recommend that Congress *abstain* from *making any* appropriation for their *satisfaction*, and from *all* legislation on the subject."

But the engagement thus entered into by Virginia with her soldiers and navy, created a lien on all the unoccupied lands claimed and held by the State at the time of making the contract. Her immense western domain was bound for these claims. After entering into the contract with her soldiers, Virginia could not make void that lien. Then the western domain was transferred to this Government, with this early incumbrance resting upon it. Besides, Congress having frequently invited the States to make liberal appropriations to their soldiers, and, moreover, having a full knowledge of the extent and variety of the claims of the citizens of Virginia against the State, acted understandingly in accepting the deed of cession. Therefore, as the contract made with the soldiers was in all respects binding and obligatory, and *prior* in point of time to the deed of cession, this Government accepted the territory subject to those liabilities. Between individuals, in a court of justice, but one opinion could prevail in a similar case; and there is no good reason why this Government should not equally respect the demands of justice, and discharge in full its obligations to our revolutionary veterans.

Independent of the equitable obligation of the United States to provide for these claims to land bounty, it is a debt incurred by Virginia in the prosecution of the revolutionary war, which, by the act of Congress of 1790, the United States became bound, and indeed engaged, to pay. Influenced by these considerations, Congress, after mature deliberation, as-

sumed to provide for these claims, as will be seen by the act of May, 1830. In 1832, another act was passed, appropriating 300,000 acres of scrip for the satisfaction, *indiscriminately*, of the continental and State line warrants. Again, in 1833, Congress passed another act, appropriating 200,000 acres more for the satisfaction of military bounties. On the 3d of March, 1835, an additional appropriation of 650,000 acres of scrip, for the satisfaction of the Virginia land bounty warrants, was passed. The foregoing being adjudications made by several successive Houses of Congress, the policy, therefore, is deemed "*res adjudicata*," and consequently as just in itself, because sanctioned repeatedly by the collected wisdom of the American people. In illustration of what has been urged, we beg leave to cite a late act of Congress, as well as the vote of the Senate of the United States on May 7, 1830, and on February 27, 1835; which act, it is considered, covers the whole ground, and is, moreover, triumphantly sustained by the recorded vote of the ablest statesmen of our country.

[Laws United States, vol. 9, ch. 307, sec. 2, p. 231.]

SEC. 2. *And be it further enacted*, That six hundred and fifty thousand acres of land, in addition to the quantity heretofore appropriated by the act entitled "An act for the relief of certain officers and soldiers of the Virginia line and navy, and of the continental army during the revolutionary war," approved the thirtieth day of May, 1830; and the act entitled "An act to extend the time for issuing military land warrants to the officers and soldiers of the revolutionary war," approved the thirteenth day of July, 1832; and the act entitled "An act granting an additional quantity of land for the location of revolutionary bounty land warrants," approved the second day of March, 1833, be, and the same are hereby, appropriated, to be applied, in the manner provided for in said acts, to the unsatisfied warrants, whether original or duplicate, which have been or may be issued as therein directed to the officers, soldiers, and others therein described; and the certificates of scrip issued pursuant to said acts shall be receivable in payment for any of the public lands liable to sale at private entry: *Provided*, That no scrip shall be issued until the first day of September next, and warrants shall be received in the General Land Office until that day; and immediately thereafter, if the amount filed exceed six hundred and fifty thousand acres, the Commissioner of the General Land Office shall apportion the said six hundred and fifty thousand acres of land among the warrants which may then be on file, in full satisfaction thereof.

Approved March 3d, 1835.

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IN SENATE OF UNITED STATES, MAY 7, 1830.

The bill *for the relief of the officers and soldiers of the Virginia State line in the war of the Revolution*, was taken up; and after being debated by Messrs. Tyler, Knight, Kane, Noble, Hendricks, Benton, Tazewell, and Burnett, the bill was ordered to be engrossed by the following vote:

Yeas—Messrs. Adams, Barnard, Barton, Benton, Bibb, Brown, Burnett, Chase, Clayton, Dickerson, Ellis, Foot, Forsyth, Frelinghuysen, Grundy, Hayne, Holmes, Iredell, Johnston, Kane, King, Livingston, McKinley,

McLean, Marks, Naudain, Rowan, Sanford, Seymour, Silsbee, Smith of South Carolina, Sprague, Tazewell, Troup, Tyler, Webster, White, Willey, Woodbury—39.

Nays—Messrs. Hendricks, Knight, Noble, Ruggles—4.

(Gales & Seaton's Register of Debates, vol. vi, part ii, p. .)

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IN SENATE OF THE UNITED STATES, FEBRUARY 27, 1835

Virginia Military Land Warrants.

The Senate then considered, as in Committee of the Whole, the bill granting an additional quantity of land in satisfaction of unlocated Virginia military bounty land warrants; and after debate,

On the question, Shall the bill be engrossed and read a third time?

Mr. Hill asked the yeas and nays; which being ordered, were as follows:

Yeas—Messrs. Benton, Bibb, Black, Calhoun, Clay, Cuthbert, Ewing, Goldsborough, Hendricks, Kane, Kent, King of Alabama, Leigh, Linn, Mangum, Moore, Poindexter, Porter, Robbins, Robinson, Silsbee, Southard, Tomlinson, Tyler, Waggaman, White—26.

Nays—Messrs. Hill, King of Georgia, Ruggles, Shepley, Swift, Tallmadge, Tipton, Wright—8.

So the bill was ordered to be engrossed, and read a third time.

(Gales & Seaton's Register of Debates, vol. ii., part i., p. 689.)

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This Government is now respectfully invited by the Legislature of Virginia, in the annexed resolutions, to go on and perfect the work which, thus far, has been creditably accomplished:

COMMONWEALTH OF VIRGINIA.

1. *Resolved by the General Assembly of Virginia*, That our Senators in Congress be instructed, and our Representatives requested, to use their best exertions to procure from Congress an additional appropriation of land to satisfy the outstanding military bounty land warrants issued, under authority of this Commonwealth, to the officers and soldiers of the Revolution, or their legal representatives.

2. *Resolved*, That the Governor of this Commonwealth be requested to transmit a copy of the above resolution to each of our Senators and Representatives in the Congress of the United States.

Agreed to by the General Assembly, January 19, 1842.

GEORGE W. MUNFORD, *C. H. D.*
J. RUTHERFOORD.

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That the act passed by the Legislature of Virginia the 2d of January, 1781, for a cession of the lands on the northwest side of the Ohio to the United States, did contain the following words, viz: "and upon their own State establishment," no one has ever denied. As was usual on such occasions, this act was forwarded by the Governor to Congress. But when it was laid before the House of Representatives, (as may be seen by referring to the manuscript copy of the congressional papers in the State Department, No. 71, vol. 2, as well as from the resolutions as reported back

to the House of Representatives by the select committee who had charge of the subject, of which Mr. Madison was a member,) remarkable as it may appear, yet neither in the manuscript copy forwarded by Governor Thomas Jefferson, nor in the copy reported back to the House by its committee, do we anywhere find the words, "and upon their own State establishment." That there was an omission of some portion of the act, is too palpable to controvert. Then the inquiry arises, in what way did it originate, and by whose negligence was it caused? The only rational solution of this "mistake," that can be given, has already been suggested. The Clerk of the House of Delegates, it seems, was the person who made the blunder.

The committee of the House of Representatives, in their report of September 13th, 1783, after citing the resolutions, go on to state their views relative to the propriety of their being assented to by Congress. Among other suggestions, we find the following: "Your committee are further of opinion, that the 4th, 5th, and 6th conditions, being reasonable, should be agreed to by Congress." But the 8th condition was strongly reported against, because it required from the United States a guaranty of all the remaining territory of Virginia lying east of the Ohio river. It is confidently believed that this 8th condition was the *only* material difficulty in the way to an immediate acceptance of the cession, and upon the terms proposed.

To remove this difficulty, further legislation was deemed necessary. The committee, therefore, concluded their report by the following recommendation: "That if the Legislature of Virginia make a cession *conformable* to this report, Congress accept such cession." No unprejudiced mind can examine the action of the Virginia Legislature in passing the resolutions of 2d of January, 1781, and the subsequent action of Congress up to September 13th, 1783, and believe for a moment, that, if the latter had received an accurate copy of the resolutions making provision for the Virginia State line, as well as for her continental establishment, the 5th condition, containing that clause, would not have been as fully sanctioned by the committee and by Congress, as it was without it; nor can any honest man believe, for a moment, that such a provision would have at all embarrassed the proceedings. The difficulties in the way of a satisfactory adjustment of the great question then agitating the public mind, were of a more important and comprehensive character.

All the conditions of the resolutions of the Virginia Legislature passed 2d January, 1783, relating to the terms upon which she was willing to make the deed of cession, from one to five, embraced provisions fully as important as the clause omitted, which, it has been stated, made provision for the Virginia State line; yet Congress did not hesitate about agreeing to them. Under what pretext could Congress, after repeatedly urging it upon the States during the war of the Revolution, to encourage their soldiers by granting land bounties, refuse, in accepting a donation, to allow the donor to reserve ample means of liquidating the very obligations which Congress had prevailed on Virginia to contract? Patriotism, no less than justice, had at all times induced the Legislature of the State to place both the State and continental lines on the same footing. Her reservations in Kentucky, for the benefit of both lines jointly, attest the truth and wisdom of this policy. She had never made invidious distinctions between her brave sons. On the contrary, she was true and just to them so long as they bravely and faithfully defended their country. How could she neglect

the one, and be solicitous to provide for the welfare of the other, when the same great cause called them to the tented field?

The service of the State line was as perilous as the continental. The same fields were alike imbued with their blood; and when victory perched on the banners of the one, it as proudly lighted on those of the other; like brothers, they fought and bled together in one common cause. And their native State, ever grateful for noble deeds, ever generous in rewarding the meritorious, and ever disposed by patriotic efforts to sustain the harmony and prosperity of the Union, designed by her deed of cession not only to cement the Union, but also to make ample provisions for compensating her soldiers. Her intentions were clearly indicated in the resolutions just alluded to, and she had never drawn unjust distinctions between her troops.

Shall the "mistake" of a copying clerk, and the subsequent failure, from a variety of causes then not anticipated, to realize all that was hoped from the State line reservation in Kentucky, be urged as an excuse for doing violence to her clearly expressed intentions, or for impairing the imposing character of those claims to the favorable consideration of this Government?

But it has been urged that Virginia had *ample* opportunity for correcting this "mistake," when she passed on the resolution of Congress of September 13th, 1783, proposing the *precise* terms upon which the deed of cession would be accepted. When we consider the deep solicitude manifested on the subject, and the great anxiety to quiet increasing apprehensions, growing out of a variety of considerations—involving the national credit, no less than the peace and stability of the Union—liberal minds can, under such exciting circumstances as were then known to exist, find, it is supposed, ample reasons to justify Virginia in not jeoparding the great interests of the country, lest she might be prevented from providing the most ample means for paying all of her revolutionary claimants—and that, too, at a time when most persons supposed, that if there was not enough good land in the State line reservation in Kentucky, unincumbered by Indian occupants, yet that, when the *Chickasaw* Indians should relinquish the *title* to their lands, there would *then* be a sufficiency of *good* lands in said land district to satisfy that entire class of claims.

To suppose that Virginia designed, by her deed of cession, to deprive herself of the ability for satisfying the land bounty claims due to her revolutionary soldiers, is preposterous. So, too, to suppose that she had it in contemplation to oust her troops of whatever was fairly due them, is contrary to reason and every principle of justice. That elevated considerations of public policy have at all times characterized the conduct of that State, upon all great and important public questions, no one will deny. With equal justice it may be said, that her honor and good faith have been preserved unsullied.

From the great *prominence* given this "mistake," in previous adverse reports to the House of Representatives, it might be supposed that the *entire* claim for bounty land *depended* upon its rigid or liberal construction. So *far* is this from being the *fact*, that very little over one-third of these claims are in the least affected by it, either one way or the other; for the *continental* claims are *clearly* included in the *reservation* contained in the deed of cession. No one has the hardihood to dispute that point. But did not Congress assume by the act of 1790 to pay the debts justly contracted by

the States in prosecuting the revolutionary war? No one will question this fact. Then upon what pretext can Congress refuse paying these revolutionary military land bounty claims? By the spirit and intention of the deed of cession, it is contended that Congress is bound to satisfy them; by its act of 1790, it is held that Congress is bound to provide for them; by all the circumstances attending the promises of land bounty made by the State to her troops, Congress is bound to pay them; and, finally, by the several precedents established by this Government, clearly and conclusively recognising the justness of those claims, and the obligation to satisfy them, it is now respectfully urged upon Congress to perfect the act which the foregoing considerations, in conjunction with all that is most brilliant in our early history, so eminently demand.

To understand more satisfactorily all previous appropriations made both by Virginia and Congress to satisfy these bounty land claims, as well as to place the number and extent of the *outstanding* warrants fully before the House of Representatives, it is deemed proper to call public attention to the subjoined letter from the Commissioner of the General Land Office. It will be found that it will require an appropriation of 650,000 acres of land to satisfy all of the warrants now on hand. Furthermore, it will be seen that it will require 400,000 acres alone for the *continental* warrants; and it will be remembered that this class of warrants is in no way barred or affected by any supposed or real "mistake" in the deed of cession. That class of claims, including the *State* line and navy, will require only 250,000 acres to satisfy them.

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GENERAL LAND OFFICE,
February 16, 1844.

SIR: In compliance with the request contained in your communication of the 11th instant, relating to the number, quantity, and other matters connected with Virginia bounty land warrants of the continental and State lines, located in Kentucky and Ohio, as well as those satisfied in scrip, together with those remaining unsatisfied, &c., I have the honor to submit the following tabular statement, to wit:

1st. Relating to warrants of the Virginia line on continental establishment—

Whole number of these warrants	- - - -	6,000
Quantity in acres contained in them	- - -	5,500,000
Quantity in acres located in Kentucky	- - -	750,000 acres.
Do. do. in Ohio	- - -	3,550,000 "
Do. do. satisfied in scrip	- - -	600,000 "
Whole quantity satisfied	- - - -	4,900,000 "

2d. Relating to warrants of the State line and navy—navy warrants being of the State line.

Whole number of these warrants	- - - -	3,000
Quantity in acres contained in them	- - -	2,500,000

Quantity in acres located in Kentucky - - -	1,100,000 acres.
Do. do. satisfied in scrip - - -	860,000 "
Whole quantity satisfied - - - -	1,960,000 "
Quantity remaining unsatisfied on warrants of the continental line - - - - - -	400,000 "
Of the State line and navy - - - -	250,000 "
Whole quantity unsatisfied - - - -	650,000 "

All appropriations of land for scrip, under the several acts of Congress, have been wholly exhausted.

I am, very respectfully, sir, your obedient servant,

THOS. H. BLAKE, *Commissioner.*

Hon. E. W. HUBARD,
House of Representatives.

In Report No. 436, page 7, the author observes that "this attempt to restrain the free issue of Virginia warrants, and to provide for the re-examination of the evidence on which they were granted, as have others of a like character of a subsequent date, proved ineffectual; and warrants have continued to be issued without limitation, or any practical supervision by the authorities of this Government, from that time to the present."

As some apprehension seemed to have been entertained that warrants might "continue to be issued without limitation," it is proper that Congress should be advised of the action of the Virginia Legislature, so that all doubts arising from vague surmises may be dispelled. This is deemed the more appropriate, as no other appropriation to satisfy these claims will, it is presumed, ever be urged, except the one now under consideration. Under existing circumstances, we may take it for granted that we have but to pass this appropriation, to discharge in full all demands of this character.

VIRGINIA LAND OFFICE,
Richmond, February 17, 1844.

DEAR SIR: Yours of the 14th instant was received to-day, and, in compliance with your request, I herewith transmit to you a copy of the resolutions, as referred to in your letter.

I published the same for *six months* in the Richmond Whig and Enquirer.

I have the honor to be your most obedient servant,

S. H. PARKER.

Hon. E. W. HUBARD.

Resolutions requiring notice to be given to persons having claims on Virginia for revolutionary land bounty, to present the same by a given day for adjustment, or that the same shall thereafter be void. [*Adopted February* 4, 1842.]

1. *Resolved by the General Assembly of Virginia*, That the register of the land office of Virginia is hereby instructed, by publication in such newspapers of this State as have the most general circulation, to give notice to all persons having claims on the State of Virginia for revolutionary land bounty, their heirs or assigns, to present the same for adjustment before the first day of March, eighteen hundred and forty-five, or such claims shall forever thereafter be considered and held to be void, except the claims of such officers and soldiers as were returned to the board of war, at the close of the war, entitled to land bounty.

2. *Resolved*, That the Governor of this Commonwealth be requested to transmit a copy of the above resolution to each of our Senators and Representatives in the Congress of the United States.

A true copy of the resolutions adopted by the General Assembly of Virginia, on the 4th of February, 1842, relative to land bounty claimants.

Teste: S. H. PARKER,
Register of the Land Office.

It may not be uninteresting or irrelevant to correct a misapprehension which, doubtless, to a greater or less extent, has gone far towards prejudicing the public mind against these claims, upon the ground that they are urged in behalf and for the sole benefit of *resident* citizens of Virginia. The facts now to be promulgated from an official source may go far, not only to dispel the prejudices already improperly fostered against what some are pleased to designate as "Virginia claims," but will, in a great measure, account for the tardiness and long delay in bringing those claims to public notice. It will now be seen that the citizens of *twenty* other States and Territories are deeply interested in these claims. The knowledge of this fact should preclude that disposition, which the modern committees of the House of Representatives, having charge of this subject, have engendered by the force of their example, in seizing hold of everything that could be wielded so as to cast suspicion on the claims, and thus to lower that high moral and political character once so lavishly accorded to Virginia by all parties.

RICHMOND, *January* 19, 1843.

SIR: In obedience to the resolution adopted by the House of Delegates on the 4th instant, requesting the register of the land office to communicate to the House "the *number* of persons who are *non-residents* of this State that appear to be *interested* in obtaining a *further* appropriation of land by Congress, to satisfy Virginia military land warrants for revolutionary services, *now* unsatisfied in whole or in part, and also the *number of States* in which they reside," I have the honor to make the following report:

In ascertaining the number of warrants unsatisfied, in whole or in part, I have taken for my guide the report of the Commissioner of the General Land Office, as there are no means in this office of ascertaining what portion of the warrants may have been located on the reserved lands in

Ohio. No account has been taken of the old warrants filed for scrip, supposing that they may be about equal to the warrants of a later date that may have been satisfied in Ohio. With this explanation, the subjoined statement may be considered as nearly accurate; precise accuracy is not attainable, without a full and complete list from the States of Kentucky and Ohio of every warrant located in whole or in part.

The *non-residents* of Virginia, interested in the manner specified in the resolution, number *eleven hundred and twenty-five*, residing in *twenty* States of the Union, in Florida, and in the District of Columbia.

I am, sir, very respectfully, your obedient servant,

S. H. PARKER,
Register Virginia Land Office.

The Hon. the SPEAKER
Of the House of Delegates.

The report No. 1063 of the 2d sess. 27th Congress, recapitulates the contracted estimates made in report No. 436, of the 1st session of the 26th Congress, relative to the number and character of the forces furnished by Virginia during the war of the Revolution. For this second imputation upon the revolutionary contributions made by the State, some apology should have been made after the able review contained in the minority report which accompanied it. Yet, to use the courteous phrase of the author, he appears himself to have been laboring under a species of "intellectual blindness," which precluded him from perceiving anything unless it emanated from his own pen, or could be made subservient to his own views. Certainly, a review of his report by the highly respectable author of the minority report, (Mr. Taliaferro of Virginia)—a gentleman no less conversant with the subject, from his associations, position, and talents, than the learned Mr. Hall himself—was entitled to some consideration, when, at a subsequent period, Mr. Hall was deputed to re-examine the same subject. This appears still more remarkable, when we bear in mind the fact, that the author of the minority report was also, when the subject was last before Congress, still a member, and then, as formerly, represented a district from the very State whose citizens, executive, and revolutionary reminiscences, Mr. Hall was exerting all of his ingenuity and sophistry to lower in the public estimation—first, by diminishing the merit of their claims; secondly, by casting insinuations upon the manner in which they were allowed by the executive; and, finally, by dwarfing the revolutionary forces of the State, to form a base adapted to his limited notions.

In the estimation of some persons, one supposed wrong is deemed ample reason to justify the perpetration of actual injury. Thus it is when injustice is to be inflicted, the shallow device is resorted to of charging it first upon the victim, under the silly belief that aspersing the motives of others will elevate those of the accuser above suspicion. Such prejudiced intellectual vision evidently guided the author of the reports under review; for when he could not hunt up a few meager facts here and there of sufficient force to enable him to establish a point,—why, he would draw upon his fancy. In illustration of this position, a few lines will be cited from report No. 1063, page 37, wherein he is endeavoring to show that the Executive has acted with culpable "laxity" in allowing revolutionary bounty land warrants. The report states that "it may seem surprising that the allowances of

claims of such a *decidedly unfounded* character should have been continued for a *series* of years, and to such an *enormous* extent, as has been shown. Undoubtedly, the *primary and leading cause* of those *extraordinary* allowances is to be found in the fact—the *important* fact—that the *claims have been adjudicated by officers of one government, to be paid by another.*"

Any other person except the author of this report would deem this, at least, a bold and violent assertion; particularly when it is remembered what the author knew to be the fact, viz: that Virginia gave to the United States her western lands, *with a reservation* in favor of her troops. The United States received the lands from Virginia, *with this express reservation* in favor of her revolutionary soldiers, and with the *full knowledge* that their claims were to be adjudicated by the *State* Executive, and only when *thus* allowed were they to be presented to this Government for payment; yet, under *such* circumstances, the *donees* undertake to speculate about the "cause" controlling the conduct of the donors in disposing of that portion of the territory which was in the deed of cession especially *reserved* for the troops. This is a specimen of the presumptuous manner in which the official conduct of the Virginia Executive is assailed by an author in whose reports more glaring omissions of both law and facts, tending to mislead, can be detected, than it is possible to find in the official acts of those thus unceremoniously denounced. *Turpe est doctoris cum culpa redurguit ipsum.*

Besides, the author relies upon calculations based on detached and imperfect data, when he attempts to prove how *many* officers and soldiers were *entitled* to bounty land. Nor is the remark made at random; for Mr. Hall, having called on the officers of Government for aid, and being positively informed that they could afford no *reliable* data, nevertheless, in nothing daunted, he proceeds with his *minimum* estimates. But, without following him *seriatim* through all the mazes of his calculations, it is deemed proper to cite a few extracts from the communications of the very persons from whom he sought evidences to establish them.

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DEPARTMENT OF WAR,
Bounty Land Office, February 6, 1839.

SIR: * * * * * * *

In reference to the third interrogatory contained in the enclosed letter, I have to state, that there are *no* pay or muster rolls in this office showing the names of the officers of the Virginia line who "*died, resigned, or otherwise lost their places in the army,*" except in regard to those who quitted the service as the necessary consequence of their becoming *supernumeraries*, as shown by the annexed statements.

Having remarked fully, and perhaps satisfactorily, in reference to the authenticity of the lists in question, and presuming that the spirit of the inquiries on the subject applies also to the *extent* of the reliance placed on them by the department, I have to state, as the result of my examinations, that the *names* of many officers of the Virginia, as well as of the other continental lines, were *omitted* to be placed on said lists; inasmuch as the registers of issues in this office show that many land warrants were granted to, or in right of, officers whose names do *not* appear on either of the lists in question, and many of those grants were made *prior* to the catastrophe

that occasioned the destruction of the records in the year 1800, and also many more in each succeeding year since that period. Hence, in the adjudication of the claims for land bounty, it is manifest that the department resorted to *other* sources of information, even at that *early* day; and, subsequently, to other *satisfactory* evidence derived from authentic rolls and records furnished at various periods by the several States, together with the *testimony* of individuals.

Very respectfully, your obedient servant,

WILLIAM GORDON.

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TREASURY DEPARTMENT,
Third Auditor's Office, February 5, 1839.

SIR: * * * * * * * *

In regard to Mr. Hall's third inquiry, I have to state that I have no knowledge of there being in existence any list "of the officers of the several regiments of the continental line, who died, resigned, or otherwise lost their places in the army," except such as appear on the list referred to in the first inquiry. Although there are a number of old muster and pay-rolls of the revolutionary army still on file in this office, yet they are so *imperfect*, (their connexion being broken by many of them having been lost by the burning of the War Office in the year 1800, and the public buildings in the year 1814,) that I am *satisfied* that it would be *wholly* impracticable to make from them anything *like* a perfect list "of the officers who died, resigned, or otherwise lost their places in the army."

With great respect,

PETER HAGNER, *Auditor.*

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WAR DEPARTMENT,
Pension Office, February 4, 1839.

SIR: * * * * * * * *

To the third inquiry, "whether there is any list remaining of the officers of the several regiments of the continental line who died, resigned, or otherwise lost their places in the army; and, if not, whether the muster and pay rolls of the army, or other authentic materials from which such list could be made, are now in existence;" I reply, that there is *no complete list* of such officers, nor can I say positively whether there *are in existence* the necessary materials for forming *such* a list. The Washington Papers, which were purchased some years since, and deposited in the Department of State, contain much information on the subject; and some information might also be obtained from the muster-rolls in this office. But I *cannot* give it as my opinion that a *perfect* list could be made from *such* materials.

Not possessing the necessary information, it is not in my power to furnish "a statement of the *number* of officers of each grade in each branch of the service, and of the *number* of non commissioned officers and privates belonging to the Virginia continental line who are returned as *entitled* to bounty land;" nor is it in my power to make "a statement of the *number* of officers of each grade in each branch of the service who *appear* to be entitled to commutation pay."

Very respectfully, your obedient servant,

J. L. EDWARDS,
Commissioner of Pensions.

No prudent gentleman, after receiving *such* answers from high and reputable officers of the Government, would rashly hazard an estimate, or characterize it as Mr. Hall has done, as giving "the *probable* number at *most*," or "the *highest possible* number."

We will now cite a few more specimens of the "laxity" of Mr. Hall, in making positive assertions, (to use his own parliamentary language.) They are to be found in page 13, report No. 1063.

He first states, that "in endeavoring to ascertain the number of persons entitled to bounty, the *number* in service *previous* to 1778 is *unimportant*, because *none* who were *out* of service *before* that time *could* be entitled to the bounty."

Now it is notorious that some of our most desperate battles took place before 1778; and no one will pretend that the Virginia troops did not participate in those conflicts; nor will any one affirm that hundreds of Virginia soldiers, and many officers, were *not* killed in those bloody engagements. No reasonable being can doubt that hundreds of Virginia soldiers, and many officers also, died in the service between 1775 and 1778; nor can it be unreasonable to suppose that a considerable number were detained by the British as prisoners of war, or else had been discharged upon certain conditions at and before 1778. These important facts are thrust aside by Mr. Hall. Besides, he has seen fit, with the same facility, to disregard the law, which is clear, pointed, and explicit, which states that "where any officer, soldier, or sailor shall have *fallen* or *died* in the service, his *heirs* or legal representatives *shall* be entitled to, and receive, the same quantity of land as would have been due to such officer, soldier, or sailor, respectively, had he been living."—(Hening's Statutes at Large, volume 10, page 160.) Yet, with these notorious facts, and this plain law before him, Mr. Hall roundly asserts that "*none* who were *out* of service *before* 1778 *could* be entitled to bounty." But, not content with going thus far in direct contravention of both the facts and the law of the case, in the very next sentence he asserts, in the most emphatic manner, that "a right to bounty could only be acquired by *successive* or *uninterrupted* service of *three* years, and by a service to the end of the war." The words italicised are so printed in his report.

In addition to the law just cited, allowing bounties to the heirs of those who fell or died in the service, we will adduce the acts of May and November, 1781, (vol. 10, pages 434 and 499, Hening's Statutes,) which grant to "soldiers enlisting for *two* years, or the war, the same bounty and immunities as other continentals." Directly in the face of these specific and palpable provisions of the bounty laws of Virginia, Mr. Hall undertakes to declare that "a right to bounty could *only* be acquired by a *successive* or *uninterrupted* service of *three* years." Again: he states that "the average quantity of bounty land *due* to privates may be stated at 150 acres each."

But we find, by a recurrence to the bounty laws, that the soldiers and sailors for three years' service were entitled to 100 acres; to the end of the war, 300 acres; and one sixth in addition to former bounties for every year's service over six.—(See Digest of Bounty Laws, in the Appendix.) In total disregard of these plain provisions of the bounty laws, "150 acres" is arbitrarily assumed as being "the average quantity of bounty land *due* to privates."

The author, in this instance, was contrasting the bounties *due*, as well as paid, to the soldiers and officers; and attempting to show by it, that the latter had already received an undue proportion. To make the contrast stri-

king, and to accomplish the end he had in view, it seems that what was *due* to the soldiers was estimated under the *minimum* principle; then the *number* of officers entitled were to be placed in an exhausted receiver, to be deprived not only of vitality, but, to as great an extent as possible, of a "local habitation and a name." Thus, by this process of double refining, the learned author has been enabled to epitomise the truth of the case, and to arrive at conclusions equally at variance with facts, and repugnant to the history of the times. But the more readily to appreciate his points and conclusions, we insert the following extract from page 15, report No. 1063: "Now, it appears from rolls in the Washington Papers, copies of which the committee have before them, that 210 of the officers who were in service in September, 1778, (*three* years *after* the war commenced,) served through the whole war. These were, of course, entitled to bounty. *Reckoning* the whole number at 420," (he produces no reliable data for this *reckoning*,) "there will be 210 other officers who might, *by possibility*, have left the army *after* a service of *three* years, and had their places filled by 210 other officers who served to the end of the war. This will give 630 officers as the *highest possible* number that *could* have been entitled to the bounty. The *probable* number does not *exceed* 500, at most."

"The number of warrants which had issued in favor of the continental officers from 1782 up to February 10, 1840, was 1,030—being 400 more than the *highest possible* number that could have been entitled, and more than *double* the *probable* number."

It is unconditionally asserted that "630 officers" was "the *highest possible* number that could have been entitled to the bounty. The *probable* number does not exceed 500, at most." That the author of the reports we are now considering should entertain such speculations, and arrive at this contracted result, will scarcely excite surprise after having observed the extraordinary mode relied upon to sustain him in his effort to *dwarf* the military contributions furnished by Virginia during the war of the Revolution. This unfair estimate—based, as it is, upon mutilated data, and the imperfect relics of records, aided by a "most extraordinary misapprehension" of both laws and facts; "a misapprehension for which it is difficult to find the semblance of an apology"—demands an examination. This we now propose to do—not by stringing together assumptions, but we hope in a more satisfactory manner. In the first place, we invite particular attention to the table of *enlistments*, made out with great care from Hening's Statutes at Large, and inserted in the appendix marked B. The various and repeated acts therein mentioned, authorizing the enlistment of troops, designating the terms of enlistment, and the number and kind of troops, will give a much better idea of the force called out, than Mr. Hall's imperfect estimates. In the second place, we propose to show that *more* officers in the continental line, actually, in 1784, *had* received their bounty land, than he declares were "probably" entitled to it; for he says the "probable number does not *exceed* 500, at *most*." To show the fallacy of this estimate, we respectfully call the attention of the House of Representatives to the list marked C in the appendix, and also to the annexed letter; both of which being from an official source, and taken from the records, may be implicitly relied upon as being correct:

VIRGINIA LAND OFFICE,
Richmond, February 21, 1844.

DEAR SIR: In answer to yours of the 11th inst., I now send to you the enclosed statement, containing the names of all the generals, colonels, and other officers, who received Virginia military land warrants prior to the 31st of December, 1784, for revolutionary services. Those of the continental line were about 595, and of the State line about 217—making in the aggregate 812.

The whole number of warrants issued prior to the 31st of December, 1784, appears to have been 3,665; to which add the double numbers, make in all 3,765; from these deduct the officers' warrants, (812,) and it appears that 2,953 warrants issued to soldiers to the date last above mentioned.

Since the 10th of February, 1840, (the date of my report referred to above,) warrants for *original* claims (allowed prior thereto) have issued in favor of the heirs of 23 officers and of 32 soldiers and seamen, besides sundry warrants for fractional interests in behalf of those who had received a part of their dues before that period. If you desire any further statement from this office, it shall be given by

Your obedient servant,

S. H. PARKER,
Register of Land Office.

Hon. E. W. HUBARD.

Mr. Parker states that 595 officers of the continental line had, in 1784, received bounty land. It will be seen that this overgoes Mr. Hall's estimate for the highest *probable* number 95, and comes within 35 of being up to what he is pleased to term the highest *possible* number; that is, according to him, only 630.

No one has, so far as we are advised, ever attempted to impugn the justice or validity of the claims allowed in those early days, when the parties applying, the officers certifying, and all else appertaining thereto, were well and thoroughly understood. It would be no difficult matter to prove that, long before the Legislature of Virginia in 1815 repealed the law requiring in all instances the certificate of the commanding officer, and before Congress had passed any scrip acts to satisfy those claims, Mr. Hall's *maximum* number *had* been *greatly* transcended. Yet no one, perhaps, except that learned author, will undertake to proclaim that the above excess, over his highest possible number 630, was unjust and fraudulent, and therefore improperly allowed. But it may be asked, What reliance can be placed in those speculations, based, as we have shown, upon the most imperfect and detached fragments of facts, which so profusely decorate the reports of Mr. Hall, and enable him to arrive at conclusions wonderful if true, yet equally astonishing, though fallacious, because emanating "*ex cathedra!*"

In the foregoing extracts, we find several emphatic and *unconditional* assertions. The author, it must be remembered, is not endeavoring to establish the simple fact as regards the precise *number* of officers furnished by Virginia, who *actually* served *three* years, or *during* the war; but he *proposes* to show the precise *number* of officers who, by *undertaking*, as well as by *performing certain* services, had become *entitled* under the *laws* to land bounty.

The author commences his computations from 1778. But, if really disposed to arrive at the truth, why did he not, as the law and the fact both allowed, go back beyond that period? Indeed, why fix upon September 1778? It would have been fairer to have taken 1775. Besides, he has made no allowances for deaths in the service, for those killed in battle, or for those taken prisoners, and otherwise prevented, though in service, from appearing on the muster-rolls. In fact, he has given a statement *confined* to those officers who *actually* served three years, or during the war, as is shown by the muster-rolls; while he induces the belief that he has rendered a bona fide *estimate* of *all* officers who *were*, under the laws, *entitled* to land bounty. This we will illustrate.

But we will take the number of officers which Mr. Hall has fixed upon as being regularly in service from year to year; and the case, when presented upon something like *fair* principles *even* with *his* limited number, will give a result greatly differing from his, and will only be more true because approximating more nearly to the real number of officers entitled.

A list of those officers who served or died, &c., from 1775 to 1778, as follows:

	Officers on the rolls.	Officers killed, died, retired, or prisoners.
Say there were in September, 1778, on the rolls and in command	420	
As many officers had, up to 1778, died in the service, or had been killed in battle, or else had been taken prisoners, or were out from camp recruiting, or had become supernumeraries, &c.; from those several causes there must have been *entitled*, but whose names were *not* then on the rolls	–	245
In service from 1778 to 1780.		
Say of this 420, from 1778 to 1780, one-tenth either died in service, or were killed, or were taken prisoners	–	42
Say 168 having entered the service for three years, in 1776 and in 1777, retired when their term of service expired, on or before 1780	–	168
Say there are left of the old class of officers, who were in service in 1778, at the commencement of 1780	210	
Then, between 1778 and 1780, new officers come into service, to fill up the vacancies, to the number of	210	
In command and on the rolls in 1780	420	
In service from 1780 to 1783.		
Say of this 420, one-tenth died, were killed, or taken prisoners, &c., before the close of the war	–	42
Say 168 retired from service before the close of the war, after serving three years	–	168
Then, between 1780 and 1783, new officers come into service, to fill up the vacancies, to the number of	210	
Say there are left of the old class, who have served from 1778 to 1783	210	
In command and on the rolls in 1783	420	
Extend the number 420, who were in service and on the rolls in 1783	–	420
Probable aggregate number entitled is	–	1,085

Thus it will be seen that Mr. Hall's maximum of "630 officers, who might, by possibility, be entitled," by having a due reference to the enlistments and the terms of the bounty laws, can be most conclusively dissipated. In presenting this tabular statement, we do not wish to be understood as giving *exact* numbers, nor as going further than simply to give some idea of the *principles* upon which the calculation should be made, and by that to prove the utter incorrectness of "the *highest possible* number 630," so dogmatically asserted in the reports under review. The estimate, however, by which we have proposed in the foregoing statement to establish this, is but a partial presentation of *all* the points, which both the laws and the facts of the case would enable any one, who would take the trouble to work out a more full, exact, and perfect calculation, to exhibit. But we have, as we humbly conceive, gone far enough to establish, beyond a doubt, the extreme absurdity of the assertion that "630 was the *highest possible* number of officers" who became under the laws entitled, either by a *continued* service of three years, or service *till* the close of the war, or by dying in the service, or being killed in battle, or by being taken and detained as prisoners of war, or by being out of camp on other duties, &c., &c.

In the report under review, it is stated "that 210 of the officers who were in service in September, 1778, served through the whole war." If this is the fact, it affords pretty conclusive proof that his *highest probable* number of officers (which is 500) who were *entitled* to land bounty, as well as his *highest possible* number, (630,) are both clearly erroneous, and greatly under the truth of the case. The more rational presumption from this statement, that 210 officers *served* during the *entire* war, would be—when *all* the contingencies are duly estimated, the happening of which *would* entitle the officers to land bounty, together with the *long* duration of the war, its perils and its hardships—that more than five or six times that number (210) became entitled. If, however, the author inferred anything to the prejudice of the claims from the number of warrants issued for *that* length of service, there are evidently grounds for misapprehension in that instance also. For, though the warrants may have so purported on their face, yet officers dying, or being killed, or retained as prisoners, &c., under certain circumstances, became entitled as fully as though they had served through the whole war. Whatever number these causes just stated may have removed from the rolls, though they thereby became entitled, yet their places were to be filled by other officers, who, in their turn, also became entitled. In addition, it may be proper to remark, that in the foregoing tabular calculations, made simply to illustrate the folly and absurdity of Mr. Hall's speculations, in attempting simply by estimating the number of officers who *actually served three years*, or during the war, as though that fact, if true, would by any means prove the *real* number *entitled*, we have not stated nor taken into consideration the notorious fact, that enlistments were annually made, from 1776, for three years or the war; so, therefore, to make the calculation properly, as the periods would be increased in number at which the troops would have served their three years, and others would take their places, who, in their turn, would also become entitled, it will be seen at a glance that our estimates, made *even* with Mr. Hall's *own* numbers, are greatly under what they would be if properly and fully extended.

Again: on an examination of the acts of enlistment, in the appendix marked B, as well as the bounty laws passed in 1781, (see Digest in the

appendix marked D,) which gave bounties for two years' service, or during the war, it will readily be seen that we have, even in our calculation, (adopting Mr. Hall's number of 420 as one of our principal elements therein,) fallen greatly under the *probable* number of officers who were *entitled* under the *laws* to land bounty. We have, as heretofore stated, computed the number entitled at 1,085 officers, though only using, as a leading item in the calculation, the *limited* number of "420, as being the *highest* number of officers that *could* have been in service at *any* one time *after* September, 1778," as stated in the report under review. Owing to the records having been in a great degree destroyed by fire, and to their having been rendered by the lapse of time, and by other causes, imperfect, it is next to impossible to make out a *full* and *exact* list of *all* those who may have been entitled. But while we readily admit this, yet we have facts enough to expose and disprove the absurd "reckoning" of the report under review. The Executive of Virginia, to any unprejudiced mind, is perhaps the most *reliable* tribunal to decide those points; and when we speak of the Executive, it should be borne in mind that Virginia does not confide her executive duties to a single individual, as some may suppose; but that, under the old constitution, there were eight councillors, who, jointly with the Governor, passed on these claims. The Executive, under the new constitution, is similarly constituted, though the number of councillors has been reduced. The members of the Council were usually lawyers, and were frequently gentlemen of talents in their profession; and no one has, so far as we are advised, ever impugned their official integrity. So we confidently believe that the Executive of Virginia was every way competent to decide in those cases. That bad and wicked persons may sometimes, by fraud and deception, have obtained such strong testimony in some cases as to impose on the Executive, is more than probable: but that there was any intentional remissness in the discharge of the Executive duties, we do not believe; nor can we suppose that, in that ancient Commonwealth, rendered illustrious by the elevated character, purity, vigilance, and ability of its public officers, duplicity or fraud enabled the viciously disposed to obtain warrants, except, comparatively speaking, for very few spurious claims. Should the Executive have been imposed upon, and consequently allowed a few bad claims to pass; yet, if this were so, it no doubt was vastly more to be ascribed to the peculiarity of the business to be adjudicated, than to any want of vigilance on the part of the Governor and Council; for, whatever may be the state of public morals, or the degree of rigor with which the laws are administered by executive functionaries elsewhere, we have no facts or evidences before us which will by any means justify us in expressing the opinion promulgated by former committees, that the Virginia Executive, either recently or formerly, has so acted "as to create a *well-founded* belief that the *warrants*, and especially those granted at a *late* period, *have been habitually issued on loose and insufficient evidence*." On the contrary, after having examined the "loose and insufficient evidence," the supposititious premises, and incongruous facts usually relied upon by the author of these reports to sustain a conclusion or overcome a difficulty, we cannot sanction his inferences till he shows that substantial facts were omitted or disregarded; positive provisions of law neglected or violated; and that the Executive, like himself, was in the habit of coming to conclusions at random, rather than by legitimate ratiocination.

We have already alluded to the fact, that the portion of the report we have

just been reviewing was fully and ably, on a previous occasion, answered by a minority report appended to Mr. Hall's report No. 436 of the 26th Congress; and that he declined, either from inadvertence, or else because he found its positions *too* strong to be successfully combated, to notice this report, or to disprove the justness of its strictures, when subsequently, as a member of the 27th Congress, he was deputed again to re examine and report upon the same subject. This seems inexplicable, when we recall to mind the uncommon labor and research displayed by Mr. Hall in his elaborate review of a short report made by a committee of the House of Delegates of Virginia, which was clearly not intended to cover the whole ground, or to present an elaborate exposition of all the points in the case at bar; and was, besides, for other paramount reasons, unworthy to take precedence over a report subsequently made by a member of Congress on the same subject. But, whatever may have been the reasons influencing the conduct of the author whose reports we are now considering, in thus declining to notice the report of Mr. Taliaferro of Virginia, we deem it, nevertheless, not only as containing a satisfactory refutation of that portion of reports Nos. 436 and 1063, which we have been last commenting upon, but as its criticisms and conclusions have never, within our knowledge, been controverted, and as it will abbreviate our labor, and more fully explain our views, we beg leave to adopt the same as a part of this report:

"The report of the Committee on Revolutionary Claims begins with quoting the various Virginia laws which granted land bounty and half-pay; but it omits the following, viz:

"1st. The act giving land bounty to chaplains, surgeons, and surgeon's mates: (see 10th volume Hening, page 141, for this act.) Under this, upward of half a million allowed.

"2d. It omits the joint resolution giving land to all Virginians in the service of Congress, though not in the Virginia line: (same volume, page 539.) Under this act, the records in the Virginia land office will show that a vast number drew land bounty. Also, the act putting the navy on the same footing wih the army, which brought all Virginians under the operation of the above joint resolution: (see 10th volume Hening, page 467; and 11th volume, pages 84, 85, and 161.)

"3d. It omits the act passed 2d of January, 1782, allowing Virginians promoted in the lines of other States, land bounty: (see 10th Hening, page 466, last clause of the 9th section.)

"4th. It omits, also, the resolution of Congress of October, 1780, (see Journals of Congress, volume 3d, page 533,) assigning the officers of the cavalry, artillery, and artificers, *as they then stood* arranged, to the States to which they had been assigned. and crediting such States with those officers. Under this resolution, many officers of other States became entitled to land bounty as officers in a Virginia regiment, particularly in Harrison's artillery regiment.

"5th. The report attempts to show that Chief Justice Marshall, with whom General Porterfield agreed, could never have *meant* that there were five hundred entitled to land bounty from all the Virginia regiments. The answer to this is, the known fact that the statement of Mr. Marshall referred to, was obtained for a committee of the Virginia Assembly, then acting on that very subject; and he was then on the spot, and saw the use which was made of his statement. No one who knew Mr. Marshall can suppose that

he would look silently on, and permit so gross a perversion of his meaning as the report alleges the committee to have made.

"6th. The report states, that though sixteen Virginia continental regiments were ordered to be raised, no more than six or seven were ever raised. This is a mere assumption, without authority to sustain it. Fifteen regiments of infantry, and Harrison's regiment of artillery, were actually raised, as a proper attention to the army records and the history of the war will show.

"7th. The report gives a table, purporting to be taken from the report of General Knox, which states that the 5,744 men for 1777, from Virginia, included those for one year, eighteen months, &c., &c. The report of Knox expressly states that there were 5,744 men for three years, or during the war, *besides the militia.* These were sufficient for twelve regiments, though the author of the report in question expressed the belief that six or seven regiments were the most that ever were raised. But the reasoning in the report on this point is artificial, and based on suppositions unsustained by evidence. And what is conclusive in support of the statement of Mr. Marshall, is, the fact that there now exists a full roll of the 12th Virginia regiment. On that roll are forty two officers, thirty of whom were entitled to, and received, land bounty; and about 546 men, who were entitled to land. This is the only full roll now to be had. Make this regiment (the 12th) the criterion, and all the estimates of the Virginia committee are fully sustained.

"8th. The report not only omits many material laws of Virginia, bearing directly on the subject which it professes to examine and illustrate, but it also omits numerous regiments and corps that ought to have been included, even under the laws it did refer to. It omits, 1st. Lee's legion; 2d, Armand's corps; 3d, Stephenson's rifle regiment, (two-thirds of which were officered and raised in Virginia;) 4th, the officers of the regiment of guards; 5th officers transferred from other States to Virginia under a resolution of Congress; 6th, all Virginia officers in the service of Congress, by land or sea; 7th, Colonel Bland's regiment of cavalry, and many other corps which could be enumerated. But sufficient is exhibited to show the erroneous assumptions and conclusions of the report.

"9th. The report professes to show that, of the 5,744 men for the year 1777, not many could have been entitled to land, as there were only 2,486 in 1780, when the three years could not have expired. The error in this estimate is, that no notice is taken of the 6,181 men who were in the service in 1776; and by inattention to the fact that Knox's return, of necessity, had reference to the end of the years; so that every man of the 5,744 may have served three years and left the army, entitled to land, prior to the return made by Knox for the year 1780, and without including one in the 2,486 in service at the time of that report. Again: many of the 6,181 men in service in the year 1776 must have been disabled or killed in the severe conflicts of 1777, 1778, 1779, and 1780, all entitled to land. One entire regiment was annihilated in the battle at Germantown, and was immediately substituted by the assignment of Gibson's, then a State regiment, to the continental service: (see acts of the Virginia Assembly and of Congress, as to this.) But the return of Knox shows 5,744 men in service in the year 1777, every one of whom was entitled to land, unless he deserted. This is double the whole number of Virginia continental troops estimated by the report to be entitled to land during the entire eight years' war!

"10th. The report assumes 3,000 to be a liberal allowance of continental troops entitled to land; and, adopting the ratio of the Virginia committee, it gives 1,312 to the State line and navy.

"By reference to the records in the Virginia land office, it will appear that 6,441 persons have received land bounty; and the report of J. H. Smith, esq., specially appointed to examine a very large mass of papers relating to the war of the Revolution, shows 6,000 more who have not received land, and who (most of them) appear, by the papers submitted to his examination, to be entitled to it. But the certificate of Judge Marshall, and the data furnished by the roll of the 12th regiment, show that there were more than 8,000 men entitled to Virginia land bounty. It has been ascertained by subsequent investigation into the claims of the Virginia State line and navy to land bounty, that the Virginia committee, as is intimated on the face of the report of that committee, made too low an estimate of the extent of that claim, by a large amount. The report above referred to omits the 1st and 2d State regiments, so called; the State artillery regiment, Colonel Marshall; the State garrison regiment, Colonel Muter; the State cavalry—several corps; the Illinois regiment; Colonel Crockett's regiment; besides many corps attached to these several regiments. And the State navy may be assumed to be equal to three regiments. In 1835, Commissioner Smith, above referred to, reported 478 of the State navy entitled, by authentic documents, to land, but who had not received it; to say nothing of many who became entitled, but whose claims could not be established by documentary evidence. By an act of the Virginia Assembly, 1,300 seamen were at one time ordered to be raised, to serve three years, or during the war. (See volume 9, page 196, Hening's Statutes.) These data furnish at least 5,000 men in the Virginia State line and navy entitled to land; sixteen continental regiments, at 500 each, 8,000; seven State regiments, including Crockett's and the Illinois, 3,500; navy, equal to three regiments, 1,500: amounting, in all, to 13,000, besides the omitted classes—say Lee's legion, Armand's corps, Bland's regiment of cavalry, Virginians in the service of Congress, and the like. Compare all this with the assumption in the report of the select committee; and can it be considered at all justifiable to assume, as that report does, that 3,000 would be a liberal estimate of the number of men entitled to Virginia continental land bounty, and that 1,312 only of the State line and navy are entitled to State bounty? thus, making an aggregate of all who became entitled to land amount to the inconsiderable number of 4,312.

"11th. It is suggested, in the report of the select committee, as a strong presumption against the merit of the existing claims to Virginia military land bounty, that, seeing the large bounties promised, especially to officers, *all* entitled are presumed to have applied for and obtained their warrants immediately on the close of the war.

"In point of fact, 804 officers (nearly double the number estimated in the report as entitled,) did receive their warrants within about one year after peace; and these warrants were obtained at a time and under circumstances when no one not entitled could be presumed to obtain them. As to the imputation cast upon the merits of these claims, that they have remained dormant such a length of time, a few facts must redeem them from that objection. The low price of land warrants then—often as low as $6\frac{1}{4}$ cents, and never more than $12\frac{1}{2}$ cents an acre—and the heavy expense (never less than half the subject) attending their location in a wilderness occupied by hostile Indians, induced many, very many, living at a great dis-

tance from the land office, to be indifferent as to an immediate attention to their claims. Be it remembered, that was not the palmy day of railroads and steamboats; nor did the mail fly then, as now, on the wings of the wind, in every direction, to the remotest corner of this extensive Union. No: whoever had business at the seat of Government, had a tedious, laborious, and expensive journey to make, either on horseback or on foot: in pursuit then, of a land warrant of such inconsiderable value, few would go. This accounts for tardiness of application. But a suspension of the location of these warrants by an order of the Government of Virginia in 1785, in order to avert Indian hostilities from Kentucky, within which the lands to be located were—followed by the treaty of Hopewell, made by Congress with the Indians, which secured to the latter the possession of the lands set apart to satisfy these claims to land—left not an acre of good land, as has been stated, on which these warrants could be located, from some time in the year 1788, to the year 1830, when Congress made the first appropriation to provide for them. Hence the apparent neglect to make application. Can it be matter of surprise to any one, that, under all the foregoing circumstances, many of those claims should now remain unsatisfied? Owing to this interdict to the location, and a deficit of good land, many of the warrants which were issued could not be located, and were finally lost. And it might be safe to say, that the warrants lost, and the bona fide dormant claims which cannot be established for the want of that rigorous evidence of claim now required, would more than double the amount of any unfounded claims which may have been allowed, and about which the report of the committee and others make such loud complaint.

"12th. It is insisted in the report of the committee, that supernumeraries are not entitled to land. As respects the continental line of the army, the laws on that subject, and the uniform action of the Government, allow land to supernumeraries. As respects claimants of that description to Virginia continental or State land bounty, it has been accorded to them by the highest judicial sanction, and acquiesced in by Congress.

"13th. The report of the committee assumes that two or three officers, besides those retained in service at the reduction in 1778, were all who were entitled to land, as they could not have served three years. And it allows 29 officers to each of the 11 regiments retained in service in 1778, as the maximum number entitled to land.

"In making these estimates on the first assumption, no allowance is made for such as had been killed in battle prior to that reduction; for such as had been disabled by wounds and disease, or who had died of disease; and for invalids and prisoners: these amounted to a considerable number, and all were entitled to land.

"Again, the estimate allowing 29 officers to each of the 11 regiments is erroneous in this: it omits staff officers; all engaged in the recruiting service; all the prisoners; and those allowed by the commander-in-chief to go home without resigning. The 12th regiment has a roll of 42 officers; and one of the State regiments had 46 officers. Take these as an average, and it adds about fifty per cent to the estimate of the committee. As a corroboration of the estimate made by the committee, the number of resignations spoken of in a letter of General Washington is referred to, and relied on. A little attention to the matter will show the irrelevancy of this. It is true, many resignations took place; but it is equally true, that as often as vacancies occurred, they were filled by those who succeeded to the claim

to land which would have enured to their predecessors. The report assumes 319 as the probable number, and 418 as the highest possible number who could be entitled to land. The records of the land office show that, within a year after the close of the war, 3,000 persons received land bounty; of these, 804 were officers, of whom 575 were of the continental line. It is hard to presume that any unfounded claims could have been admitted then. Such are the facts of the case, opposed to the suppositions and assumptions of the committee, unsustained by evidence, based on unfounded data, and sustained by the most artificial reasoning. The report insists that more than 418 officers could not, by possibility, be entitled to land; yet the records show that 575 received it within one year from the end of the war—at a period, and, as has been said, under circumstances which forbid the idea that any one could have received it who was not entitled. So much for this assumption of the committee. The errors in the report consist, in part, in the omission to notice many of the laws of Virginia allowing land bounty; and in the omission of many classes, regiments, and corps, the officers of which became entitled to land bounty chiefly under the omitted laws, as heretofore referred to, viz: Harrison's artillery regiment had 80 officers; the report estimates no more than 29.

"The omissions referred to are—

"1st. Staff officers—more than 500,000 acres drawn under the act. (10th vol. Hening, page 141.)

"2d. All Virginians in the service of Congress; (10th vol. Hening, page 539:) this was a numerous class. Navy the same. (Hen. vol. 10, page 467; and vol. 11, pages 84, 85, and 161.)

"3d. Virginians promoted into the lines of other States. (Hening 10, page 466; last clause of the ninth section.)

"4th. Officers of other States transferred to the Virginia line. (See resolution of Congress of 3d October, 1780—Journals of Congress, vol. 3, page 533.)

"5th. The officers credited to Virginia, viz: 1st, Lee's legion; 2d, Armand's corps; 3d, Colonel Stephenson's rifle regiment—two thirds of which was raised in Virginia, and went to Canada in 1776; 4th, the regiment of guards; 5th, two State regiments omitted—the estimate being five, instead of seven; 6th, navy estimated at one regiment, instead of three at the least.

"6th. All supernumeraries who did not resign before three years' service.

"7th. All who died in service; all prisoners; all soldiers who were promoted towards the close and during the progress of the war. Though some of these classes are alluded to in the body of the report, they are not taken into the estimate when the conclusion is made that not more than 418 continental officers could, by possibility, be entitled to Virginia land bounty.

"8th. The report assumes eleven as the full number of continental regiments, and allows twenty-nine officers to each. There were fifteen regiments officered. Fifteen of infantry were, in 1778, reduced to eleven; but this reduction did not embrace the artillery regiment, Baylor's cavalry, and the officers of the four reduced regiments, who were all entitled to land bounty.

"That the estimate of the number of Virginia officers, assumed in the report of the select committee, is erroneous, will manifestly appear by a reference to the number and character of those officers who received land at the close of the war. These were, besides the commander-in-chief, 2 major generals, and 11 brigadiers in the army, of whom ten received land within

a few months after the close of the war. Virginia had 39 colonels and 47 lieutenant colonels—86 in all, of whom 62 received land within a year after the close of the war. Now, the single fact that Virginia had 14 generals, and 86 colonels and lieutenant colonels, shows conclusively that her forces must have exceeded vastly the number estimated in the report of the committee, which estimate forms the basis of the speculative reasoning and results exhibited in that document. It is not assumed, nor intended to be claimed, that Virginia had, at any one time, as many officers in actual service as are above estimated. Some were killed; some were prisoners; some became supernumerary; and some resigned after three years' service: all, nevertheless, entitled to Virginia land bounty. The same casualties apply to the inferior officers, whose numerical proportion to the colonels could not have been less than forty to one, estimating ten companies to a regiment, and four officers to each. In truth, the number of inferior officers, from greater exposure to hardship and danger, who were killed, died in service, invalids, prisoners, &c., was, it is fair to conclude, much beyond a mere numerical proportion, compared with the generals and colonels; yet, if even this rule be adopted, and 43 be taken as the medium between colonels and lieutenant colonels, that number multiplied by 40, and it exhibits 1,720 officers of the continental and State lines, who would be entitled to land; independent of the navy, which had a larger number of officers, in proportion to the men, than the lines in the land service had, from the fact that the warrant officers in the navy, ranking with the subalterns on the land, were very numerous: these all were entitled to land.

"There were, as has been stated, fifteen Virginia continental regiments of infantry, all the officers of which, reduced or not, were entitled to land; Bland's cavalry regiment; Harrison's artillery regiment, equal in officers to two infantry regiments; Stephenson's regiment; the regiment of guards; Lee's legion; Armand's corps; the State legion—in all, equal to five regiments. To which is to be added all those in the service of Congress, either in the army or navy—equal, at least, to five regiments more—making an aggregate of 25 regiments. Taking, then, 40 officers as the average number to each of these 25 regiments—and 42 is the number on the roll of the twelfth regiment—and in assuming 40 as the average, all are included who died, invalids, prisoners, supernumeraries, and those resigned, who served three years: it shows 1,000 officers, besides general and staff officers, amounting, at the least, to 100, in all, 1,100 entitled to Virginia continental land bounty; and of these, 976 only have received it, leaving 124 unsatisfied. The report of the committee assumes that the number of *changes* from death, resignations, &c., &c., could not amount to many, seeing there appeared to be so many who had served over six years, and to the end of the war; thus showing they had left no vacancies from the beginning, to be filled.

"In assuming this, the following facts are overlooked: 1st. That all supernumeraries, whether of 1778, or any other period, and all the reduced and retiring officers, were entitled to land, as if in service at the end of the war. 2d. All who died or were killed received the same as if in service at the end of the war. 3d. All who, having served as privates or non commissioned officers, and afterwards were promoted and commissioned, (and there were many such,) were allowed land as officers from their first service to the end of the war, though they might have been officers a few months only prior to the close of the war. These three classes (and they were all

numerous) are to be deducted from the number of those assumed in the report as having left no vacancies. The large grants of land already issued in satisfaction of these bounties is more than intimated in the report as evidence of error in allowing those grants. These large grants, in the aggregate, are to be accounted for by the very liberal bounties allowed, both to officers and soldiers, in pursuance of repeated appeals by the commander-in-chief and by Congress to the patriotism and generosity of the several States, to make ample provision for the army at the close of the war—to the end of insuring a vigorous prosecution of it. But those times are, by too many, forgotten; and few now seem to take into the estimate that the land thus granted was the price, in part, paid for that liberty and independence they now enjoy. It was under these circumstances that Virginia allowed a major general 15,000 acres, brigadier general 10,000, colonel 6,666⅔, lieutenant colonel 6,000, chaplain 6,000, surgeon 6,000, major 5,333, captain 4,000, subalterns each 2,666⅔, besides one sixth for each year in addition to the above, for service over six years; and, under this provision, many received as much as half, in addition to the above bounties. Sufficient has been stated to correct many of the prominent errors in the report of the select committee, and to justify the committee of the Virginia Assembly against all the material charges against their report. Sufficient, it is confidently believed, has been adduced to show that many just claims to Virginia military land bounty remain unsatisfied; and the demand on Congress to make provision for the satisfaction of all such claims as can be shown to be valid, is unquestionable. This is a debt contracted by Virginia in the prosecution of the revolutionary war, and, as has been remarked, at the repeated solicitation of Congress; and if no other consideration could be urged, the act of Congress, called the assumption act, is sufficient to demonstrate the claim of Virginia on Congress to provide for these land bounties. By that act, Congress assumed to pay all the debts of the several States, contracted by each in the prosecution of the war, and is thereby justly bound to pay this.

"But it is alleged in the report of the committee, that Congress has already given scrip for more than all the unappropriated land between the Scioto and Miami; that, therefore, no further claim can be properly made on Congress, as that land *only* was reserved. Here the committee err, in taking no proper notice of that extensive region of land set apart by Virginia, west of the Tennessee river. This, if added to the lands set apart between the Scioto and Miami, would have been an ample quantity of land to satisfy all the engagements of Virginia to all her troops. Of this her troops have been deprived by the treaty of Hopewell, and no equivalent has been provided. Again: Virginia, having, as has been shown, promised large bounties to her troops, did, by an act of her Legislature, in 1782, pledge *all* her western lands to satisfy those bounties; thus creating an equitable lien on her entire domain. Afterwards, Virginia gave all this domain to Congress, making the reservations above referred to; and it may be justly asked, Can the second donee, in conscience, hold to the gift, to the exclusion of the officers and soldiers? The question, then, now to be settled, is, Do any of these claims, appearing justly due, remain unsatisfied? If so, it is confidently expected that Congress will, as a matter of justice, provide for the satisfaction of all such. It is strongly intimated in the report of the committee, that land bounty has been allowed by the authorities of Virginia improvidently, and to a large amount, to many not entitled. A few cases

out of the thousands acted on may be selected to give color to this allegation, which, if true to its utmost extent, would be an atom, compared with the omission to grant bounties in land and pay justly due, to a very large amount, by those authorities. Half-pay for life was promised by Virginia to all her officers who became deranged by the reduction of the army at any period of the war. (See act of Virginia Assembly, May, 1779.) Yet not one of these officers who were reduced prior to May, 1779, has, to this day, received that pay. And by an act of Assembly of —— (See Hening) Virginia promised 100 acres additional land bounty, and $200, to be paid in specie, at the end of the war, to all her soldiers who should serve to the end of the war in the continental line. Though thousands became entitled to these bounties, not a man has received them. Does this wear the appearance of improvidence, or a design on the part of the Virginia authorities to extend the amount of these claims beyond what was considered justly due? Certainly not.

But the antiquity of these claims, and that many of them have fallen into the hands of speculators, are urged in the report, and elsewhere, as insuperable grounds of objection to the payment of them. A violation of the contract on which those claims are founded, by the Government, is the cause both of their antiquity, and that many of them fell into the hands of speculators. The Government agreed to pay specie in discharge of them; but, instead of specie, all the means for payment consisted of bonds, so depreciated and worthless, that many claimants either would not receive them, or would not incur the trouble and expense of applying for them. So that, in all this business, the Government was the parent of the speculations now so severely denounced. But it is said that a full and fair opportunity was afforded by the Government to the claimants to liquidate their claims at the close of the war: that, after the close of the war, commissioners were appointed in each State for that object. True, such commissioners were appointed; but to do what? Why, to perform a mere mockery. It was only to ascertain what was due to the individual, and to send him off with a bond, which would often not defray his expenses in seeking this full and fair opportunity afforded him to receive payment of his claim. There is no one, acquainted with the history of that period, who will not affirm that the public bonds, then issued in discharge of revolutionary claims, were not nearly as worthless as the millions of paper-money was, just then defunct. And there was a prevailing opinion that no better provision could ever be made for these bonds, (called certificates of debt,) than had been made to redeem paper money. Such was the full and fair opportunity said to have been afforded. And to this were added statutes of limitation, which barred these claims more than thirty years; and now it is their antiquity is a reproach, and furnishes with many a sufficient reason to reject them.

The application to Congress to provide for the unsatisfied land bounty is not, as the report assumes, an appeal to the benevolence of that body. It is not asked as a gratuity, but it is an appeal to the justice of Congress. The reservation in Ohio, to satisfy these land warrants, never belonged to Congress. It is reserved by the deed of gift of Virginia; and Congress should take no credit to itself for any locations therein made; it never had a right to prohibit them. The application, then, of Virginia to Congress, is, that as the former owes, on account of the revolutionary war, more land than was reserved in the deed of cession to the latter—as the latter has received the

consideration of the debt, and has got from the former, by donation, the means of paying that debt—can it be questioned but that a sufficient portion of those means should be devoted to extinguish that debt?

"It is insisted, in the report of the select committee, that the officers attached to the regiment of guards raised in Virginia in 1779, and those attached to the regiment under Colonel George Gibson, were not continental officers in the line of the army, and therefore not entitled to United States land bounty and pay; and this is urged on the ground that land bounty and half pay were promised to such officers only as were commissioned by Congress, whereas these were commissioned by the Governor of Virginia. The maxim, *qui facit per alium, facit per se*, has ever been held a sound one, and it applies most aptly to this objection. By a resolution of Congress of the 9th of January, 1779, (see journals of Congress.) it was ordered that a battalion of six hundred men should be raised in Virginia, on continental establishment, to be officered by the Executive of Virginia, and to be denominated the regiment of guards. The regiment was, according to order, raised, and the officers commissioned by the Governor of Virginia; and it continued in the continental service till May, 1781, when the men were discharged, and the officers became supernumerary, entitled to all the benefits of officers of that class; and though not actually commissioned by Congress, it was under that authority alone they were commissioned. George Gibson's was originally a State regiment, and the officers commissioned by the Governor of Virginia; and the history of it is, that, upon the requisition of Congress on Virginia to replace her 9th continental regiment, which was annihilated at the memorable and bloody battle of Germantown, Colonel George Gibson's regiment was, on the 12th of September, 1777, by an act of the Virginia Assembly, substituted for the 9th regiment, and thereby transferred from the State into the continental service. Accordingly, by a resolution of Congress, this regiment was ordered into the continental service. (See journals of Congress, September, 1777.) Thus it appears that, by law, Gibson's became a continental regiment; and Virginia could not, if she desired to do so, recall it. (See letter of the Secretary of War.) This regiment was in all the hard-fought battles to the north—from the battle of Brandywine to the victory at Monmouth; and though, from its being originally a State regiment, mistakes have, from time to time, been made as to its true character, by those unacquainted with its true history, nothing is more clear than that from 1777 to the close of the war it was a continental regiment."

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In report No. 436, at pages 9, 108, and 109, the author attempts to throw suspicion on the warrants now outstanding, by urging that an undue number, perhaps, have been issued since 1830. To strengthen this surmise, a comparison is instituted between the number of revolutionary warrants issued, at given times, by the State and Federal Governments. Then the conclusion is soon arrived at, that, "as the *land* allowances by Virginia since May, 1830, have been *four* times as great, in proportion to the whole number, as the allowances by the United States during the still longer period from September, 1828, to the present time," therefore, there might have been some impropriety committed on the part of the Executive of Virginia. We propose, in a very few words, to explain this difficulty. It will be remembered that Virginia had promised her troops *good* lands; that after 1792, Kentucky prohibited the location of warrants in that State; and that, previous to that period, nearly or quite all of the

good lands east of the highlands dividing the Tennessee and Cumberland rivers, had been located; that the Indian title to the lands between the Ohio and west of the highlands, and bounded south by the State of Tennessee, was not extinguished till about 1818; and that Kentucky also prohibited the Virginia troops from locating their warrants on those lands. Furthermore, it will be borne in mind that the early settlers had laid their warrants on the best lands in the Ohio reservation. Thus it will be perceived that those having the Virginia claims, apprehending that but a small (if, indeed, any) equivalent for their time and expense, under the then existing circumstances, could be obtained, should they even prosecute their claims successfully, naturally permitted them to lie dormant. When somewhere about 1830, from various causes, public attention had been again drawn to the subject, and there were evident indications of a disposition to satisfy the outstanding claims—not, however, by paying the soldiers in *poor* or *refuse*, but in *good* lands, such as had been promised—why, the claimants then came forward to ask for what was due them. Under such a state of facts and circumstances, is there anything mysterious or wonderful in the great mass of those interested declining to urge their claims, when it was supposed that it would be just throwing away that much time and trouble to no purpose; or in their coming forward afterwards to present them, when they had the best hopes of having their dues paid in full? Yet this circumstance is tortured to the prejudice of the claims, in the reports under review. But no candid man will pretend that the two classes of claimants, between whom the comparison has been instituted, were similarly situated. On the contrary, *this* Government never, at any time that we are advised of, interposed the slightest difficulty in the way so as to retard or prevent the soldiers from getting, whenever they might demand it, *all* that was due them. Then those having claims against the United States for revolutionary land bounty could apply at any time for their dues: and could just as well at one time as another have been paid in *good* land. So there never were any obstacles of any kind presenting themselves to prevent or retard the prosecution or payment in full of the bounty claims against the United States.

Having already, in the foregoing part of this report, as we believe, most satisfactorily shown that the claimants *against* Virginia had *many*, if not insuperable difficulties to contend with, we deem it sufficient here simply to allude to those facts. Therefore, as there was a most striking *dissimilarity* of circumstances existing between the respective classes of claimants, it would in fact *only* have been wonderful had they progressed, *pari passu*, in obtaining payment. Nor is there anything in the simple fact, that, when the difficulties were removed, the Virginia claimants should more eagerly go forward in quest of what was due them. Indeed, this seems still less astonishing to sensible men, when they bear in mind another important fact—that the average amount of the Virginia bounties to officers is about 3,660 acres each; while the average of the United States bounties to officers does not exceed 262 acres each—being about one-fourteenth of the Virginia bounties.* Surely, it cannot, with enlightened minds, be a matter of surprise that one class of these claimants should

* See appendix, letters 1 and 2.

press *more* eagerly after bounties averaging 3,660 acres, than another class should after bounties averaging only 262 acres each. Reasoning by analogy, at best, is frequently fallacious; but when there is a wide and indisputable difference in the circumstances of any two cases, then to institute a comparison of results is rather to confound than to enlighten.

Some persons have supposed that the antiquity of these claims, together with the great tardiness manifested in presenting them for consideration, is a sufficient reason to warrant this Government in refusing to entertain or liquidate them. But we imagine the facts stated in the preceding part of this report are sufficient to explain this delay; so we will not now recapitulate them. Indeed, we need but refer to Doc. No. 57 of the present session for conclusive examples on this point. By examining that document, the following results will be found:

Number of warrants issued for officers and soldiers of the revolutionary army that *remain* on the files of the bounty land office *unclaimed*—

Aggregate number - - - - - - -	45
Number of officers and soldiers of the revolutionary army who have acquired a *right* to lands from the *United States*, and who have *not* yet applied therefor—	
Number of officers - - - - - - -	137
Number of soldiers, about - - - - - -	2,039
Aggregate of officers and soldiers - - - - -	2,221

Here, then, are 2,221 officers and soldiers to whom the Government publicly proclaims land bounty is *now* due, and that it has *not* as yet been applied therefor. These facts are indisputable. The parties have but little to do to obtain their lands; yet these claimants have not come forward, up to this time, and demanded what is due them.

But will any one undertake to say that the character of these claims is at all affected by the parties not coming forward? Then, why should delay operate to the injury of the Virginia claims, decided by the proper tribunal to be equally good? Especially should the Virginia claimants be exempt from any unjust imputations on this score, since we have heretofore shown they had so many serious difficulties to contend with.

Both of the reports now under review seem to deprecate the report of J. H. Smith, made under a joint resolution of the Legislature of Virginia in 1833, requiring him, as agent or commissioner, "to examine the revolutionary documents, &c., in the several offices of the Government, and the papers, &c., recently discovered in the attic story of the Capitol, and to report to the Executive of this State a *list* of the names of *all* such persons as may be entitled to unsatisfied claims on Virginia for bounty land, on account of *service* rendered in the war of the Revolution, and such other information touching revolutionary services as may be deemed important." After Mr. Smith entered upon the discharge of his duties, he discovered a variety of materials, which he supposed were of importance. From them he gleaned such facts, and made out such estimates, as the nature of the evidence appeared to warrant. But, because the Committee on Revolutionary Claims of the House of Representatives decided against all, or a large portion, of the half-pay claims, urged upon the evidence he had collated under the latter clause of the resolution in virtue of which he acted, the author endeavors to produce the impression that all of his other

labor was equally unsatisfactory and worthless. Even if the decision of the Committee on Revolutionary Claims were infallible, (as the author may have supposed, as it passed perhaps under *his* scrutiny;) still, upon *other* points, the evidence adduced by Mr. Smith might be perfectly satisfactory. Mr. Smith has, so far as we have been informed, ever sustained, in all respects, a fair character; and we will not undertake to express any opinion respecting the decision of those who differed from him as to the degree of testimony necessary to establish any given point; nor do we suppose such a circumstance, with reasonable men, would destroy the force of any other facts presented by him from the records on another subject. But this hypothetical mode of arguing against the extent or validity of the outstanding warrants is no less novel than absurd.

The report also urges that there was an "*uncontrolable* disposition in Virginia to discover and prosecute claims for bounty lands, as well as for half pay." This imputation, if just, certainly came with a very poor grace from the author of the several adverse reports, which exhibit fully as much zeal in the opposition, as it was possible for any one to manifest in the advocacy of them. May it not at least be deemed as culpable to oppose indiscriminately *all* the claims which are now outstanding, as to examine the records and other sources of evidence, and present from them for consideration such cases as seem reasonable and just? If being overzealous was reprehensible in the applicants, (*some* of whom, according to Mr. Hall, urged *just* claims,) the impropriety of that course has been merged by his superior fervor, energy, and adroitness in defeating *all* of them, whether just or unjust. We have deemed it sufficient, in passing, thus briefly to notice his criticism on Mr. Smith's labors, lest our silence might be construed into acquiescence.

Having shown that Mr. Hall vastly *underrated the number of officers entitled to bounty*, and that he also was *under* the mark in placing his *average* of the quantity of land which each officer or soldier in the Virginia continental line was entitled to: therefore, any representation he might make, going to show that a great excess of bounty land had been improperly allowed, is not to be relied upon. For if the data be incorrect, the conclusion is *necessarily* so. For these reasons, as well as others which we will present, the following conclusion of his argument on this point appears no less extraordinary than unfounded.

In report No. 1053, page 16, the author declares that "it is placed *beyond doubt* or *controversy*, that a *far* greater amount of land bounty *has been allowed* by the State of Virginia *than* the quantity of good claims which *ever* could have *existed* against her."

Modesty is reputed to be the accompaniment of merit, while rashness is justly esteemed to be the concomitant of folly. For any one, however learned or talented he may esteem himself, boldly to assert that any given proposition, unsupported by authentic data, logical argument, or mathematical certainty, has, nevertheless, by him been placed "*beyond doubt* or *controversy*," might appear magnificent, did we not know it to be absurd and ridiculous. But, in controverting this, as well as other declarations of the author, we will invite attention to facts. In the first place, one *large* portion of the bounty due has *never* been demanded or paid, as will appear by an official letter from Mr. Parker.

VIRGINIA LAND OFFICE,
Richmond, April 10, 1844.

SIR: Yours of the 30th ultimo has been received, and contents noted. You inquire whether it is true that "no land bounty has been allowed and paid by Virginia to any soldier of the Revolution, unless he enlisted for three years or during the war?" In reply thereto, I beg leave to say the statement is correct, except in a few cases of service under General George R. Clarke, where the bounty has been allowed for a shorter specified period. It has been, I believe, almost invariably required that the soldier should establish the fact that he enlisted for *the war*, or for *three years*, before the bounty would be allowed. Enlistment for two years, and a re-enlistment just before the expiration of that term for two years longer, has in no instance, it is believed, been considered as entitling the soldier to land bounty, although he may have continued for nearly four years successively in service.

Your second inquiry is, "Have any allowances ever been made under the act of the General Assembly of Virginia, giving 300 acres to each soldier, therein referred to; and if any, how many?"

This act seems to have been overlooked for a long time, as stated by Mr. Hening. See his note to page 331, vol. 10, of Statutes at Large.

In the case of John Richey, (see warrant No. 7599, which issued on 14th February, 1834,) it did appear that the enlistment was within the terms of this law; and the warrant aforesaid, for 300 acres, did issue accordingly. This is believed to have been the *only case* of an issue of a warrant for 300 acres under the law.

Your third inquiry is, "Have any allowances of land bounty ever been made to soldiers or their heirs under the first branch of section 9, page 84, of vol. 11, Hening's Statutes at Large, to which the soldier or his heirs would not have been entitled under some previous act?"

The practical construction which has been given to this part of section 9 of this law, has rendered it inoperative so far as the soldier was concerned. Independent of this act, the soldier was entitled to 200 acres of land if he enlisted, at any time before the close of the Revolution, for a period of "during the war," and served out his time. So with regard to enlistments for three years: the soldiers were entitled each to 100 acres before the passage of this act; and they received no more under this act, unless they continued for more than six years in service; in which event, they received, in a *very few* instances, the additional one-sixth per annum, as allowed in the last branch of this section.

It has been suggested, that under this act the soldier was entitled to land bounty, provided he was three years successively in service, no matter under how many enlistments for short periods; but such has not been the practical construction of the act, as I have stated in my reply to your first inquiry.

Your last inquiry is, "Have any allowances of land bounty ever been made to soldiers or their heirs who enlisted under the act of November, 1781, for two years, or during the war?"

As the original law promising land bounty for enlistments for a term "of during the war" was prospective in its operation, it embraced all who would enlist at any time during the struggle. Enlistments, therefore, *for that term* had been provided for before the passage of this act; and as no enlistments for a shorter time than *three years* have been recognised in

the allowances of land bounty, it is apparent that no warrants have been issued under this act, to which your inquiry refers.

I have the honor to be, sir, yours, &c.,

S. H. PARKER,
Register of Virginia Land Office.

Hon. E. W. HUBARD.

In the second place, we call attention to the following extract from a former letter of Mr. S. H. Parker, register of the Virginia land office, dated Richmond, February 10, 1840, and addressed to the Hon. H. Hall:

"The executive allowances for military services, now on file, for which *no* warrants *have* issued, amount to about 122,994 acres. Many of these allowances were made fifteen or twenty years ago, and I think it highly probable that warrants will *never* be issued to satisfy them. Most of these claims are for services rendered by privates and seamen; and as the claims are small, (in no instance exceeding 200 acres,) the parties interested will *not* incur the expense and trouble to *obtain* the warrants." See report No. 436, page 89.

It will also be remembered that Mr. Hall declares that "a *right* to the bounty could only be acquired by *successive* or *uninterrupted service of three years*, and by a *service* during the war." Mr. B. W. Leigh, in the able speech cited in a preceding part of this report, places the right to land bounty upon "*service*." If this, then, is the true interpretation of the bounty laws of Virginia, there has been a large class of claims excluded by adopting a different one: for Mr. Parker, in his letter, explicitly states that the claimants *must* have *enlisted* for three years, or to the close of the war, and *also* have *served*, &c., before they were by the Executive deemed entitled. But it is notorious that a great many *enlisted* for *one* and *two* years, as well as for shorter periods, who nevertheless "*served three successive* or *uninterrupted* years," and yet were *not* deemed entitled, because they did not *enlist* for *three* years, or the war. This is a third instance where, at least according to Mr. Hall, *all* has not been claimed that was due.

In the fourth place, there is a *large number* of warrants *now* outstanding, and we have the highest "prima facie" evidence for believing them as good as any which have been allowed by the Executive.

To satisfy those claims already allowed, we have heretofore stated would require an appropriation of 650,000 acres of land.

We deem it unnecessary to dwell at much length on this point, having, as we most humbly believe, pointed out facts enough to divest the conclusion so vauntingly announced by Mr. Hall, of *all* foundation, justice, force, or point.

Having noticed most, if not all of the leading objections urged against making a further appropriation of scrip to satisfy the bounty claims remaining unpaid, we will, in conclusion, examine that portion of Report No. 1063, in which the author reviews and denounces particular cases, with the view of confirming his extravagant assumptions. But it does not appear on what *reliable* evidence Mr. Hall, in his speech, made after the introduction of his report into the House of Representatives, and which more concisely presents his views on the subject of the land bounty claims allowed by the

Executive of Virginia, was warranted in saying: "It seems, however, that another batch of 625,000 acres of land, or more, are outstanding; and judging what will be, by what has been, I hazard nothing in saying that warrants will continue to be issued liberally, so long as Congress shall manifest a disposition to pay them."—(See 4th page of the speech, made on his report.) Again: he says, on the 10th page of this speech "I believe *all* the claims which have been allowed [speaking of claims to land *allowed* by the Virginia Executive *since* 1830, and *for a long time previous.*] are unfounded and bad; yet I do not intend to say that there is not some little apology, in the weakness of human nature, for the course Virginia has taken in regard to them; though I do not admit there is *any justification* for her." It would be more satisfactory if Mr. Hall had referred to *all* the laws of Virginia allowing land bounty to her officers, soldiers, and seamen; and to the *evidence* on which the Virginia Executive, charged with the execution of those laws, allowed the claims so positively and indiscriminately pronounced by him unfounded and bad.

The claims allowed by the Virginia Executive, which seem to merit, in his opinion, the most marked denunciation, as being "unfounded and bad," are those allowed to the heirs of John Paul Jones and sixty-four others; and in regard to which, he says:

"I have before me an authentic list of all the bounty land allowances which have been made by Virginia to officers of the continental line since the 1st of September, 1835, when the scrip act took effect, down to January, 1840. This list contains the names of 64 officers, to whom land, to the aggregate quantity of 200,000 acres, has been granted. To prevent all suspicion of an unfair selection, I shall take them up in alphabetical order." (See 10th page of the speech.) And on the 12th page of the speech he, holding a list of the 64 cases up to view, said: "I unhesitatingly pronounce, not a part—not a large portion of them—but *every individual* claim of them, to be bad. I invite any gentleman who desires to reply to me, to take the list, and, before becoming particularly eloquent in favor of these claims, to select from it a *single allowance, as he chooses*, and endeavor to satisfy the House that it is well founded."

At the *time* Mr. Hall tendered this issue, *he* knew that he was under a *pledge* to demand the previous question at the close of his speech. This he did; his demand prevailed; so that no gentleman had an opportunity to reply. (See House Journal, 16th January, 1842.) In order to justify the allowance of some of the claims, so decidedly pronounced unfounded, the committee have been furnished with official transcripts, or copies of the evidence, on which some of the 64 cases objected to were allowed by the Virginia Executive. This explanation applies to the cases very nearly as they stand on the list made by Mr. Hall. The time prescribed would not allow your committee to procure the evidence on which the claims were allowed, to the full extent of the list. Yet we believe that what is done, will satisfy the House that Mr. Hall was not justified in his imputations on the Virginia Executive; nor in asserting that not *one* case of the 64 could be shown to be a well-founded claim to land bounty.

The first claim which will be offered to the notice of the House, is that of John Paul Jones. In regard to this claim, Mr. Hall, in his speech, (10th page,) says: "And lately, some niece, nephew, or, perhaps, fourth cousin of Paul Jones—for he left no descendants—has been allowed 13,286 acres of land, for a service as captain in the continental navy, *without even a*

pretence of law to justify it." The committee have not procured, and therefore cannot embrace in this report, the evidence on which this claim was allowed. The public history of this distinguished man will furnish that evidence. It represents that he was a native of Scotland. At an early age he manifested a partiality for a sailor's life; and at the age of thirteen, in one of his voyages, he came to the Rappahannock river, in Virginia, for the first time, where he made the house of a brother his home while in Virginia. In 1773, the death of that brother brought him again to Virginia, *where he decided to reside*, having determined to abandon a seafaring life. So he remained till the latter part of the year 1775, when he received a commission in the continental navy, in which he continued to serve during the entire war, as a *citizen* of Virginia, in the service of the United States. His claim on Virginia for land was as valid as if he had been in the service of the State. The allowance made to him by the Executive of Virginia, being that due to an officer of his rank, was, in the opinion of the committee, a legal and proper one.

The statement (in page 20 of Report 1063) that "the Virginia bounty, as will be remembered, was promised only to persons serving in the continental and State lines, and in the *State* navy of Virginia," *is not correct.* That bounty in land was promised *also* to "all officers and soldiers, being *citizens* of this Commonwealth, belonging to *any corps* on continental establishment, and not being in the service of any other State," whether that corps was in one or the other branch of the continental establishment. (See 10th vol. Hen., page 539.) Suppose John Paul Jones had been in the *marine corps* of the continental establishment: would his case not have been within the very *letter* as well as *spirit* of the resolution? A Virginian, who served in *any corps* on continental establishment, the requisite period, was entitled to the bounty; and no one ever supposed, as your committee is informed, until the publication of this report, that any *one corps*, on continental establishment, had a preference, under this resolution of 1779, over any *other* corps—that any officer of the *marine* corps was not as much provided for as an officer of a *partisan corps*, or any other corps, on the continental establishment. The officers intended to be provided for, were those citizens of Virginia who were in the service of the confederacy, although not in the *continental* or State line or navy of any particular State. The words "*continental* establishment" were in contradistinction to "*State* establishment." And every person engaged in the military service of the confederacy, and belonging to the forces of no particular State, belonged to the continental establishment; they were more familiarly known as "Congress troops." The navy was as much a part of that "continental establishment" as the land forces were; a commodore as much a part of it as the officer of the "*marine corps*," under him; they alike belonged to a *corps* on the continental establishment, specially provided for in the resolution of 1779.

The Governor and Council of Virginia never had any doubt on this point, as your committee are informed. The learned Mr. Hall, in his commentary on the case, overlooked the real question in it, which related solely to the *citizenship* of John Paul Jones; and, on this point, it was satisfactorily shown he was a citizen of Virginia: that he had come to Virginia before the Revolution, and was here when the war broke out; that he had been in no other State; was a British subject by birth, and until the declaration of independence. Coming from no other State of the Union, he was a *citizen* or

alien; if an alien, he was an *alien enemy*, (being the subject of a country with which we were at war;) which conclusion would be palpably absurd. But as this point was given up in the report under review, nothing further need be said than that the claim appears to have been a strictly legal and equitable one, and the bold condemnation of it entirely unjustifiable.

Among the first claims on the list of 61, pronounced to be bad by Mr. Hall, is the claim of Captain Dohicky Arundel. (See page 25 of his report, and page 11 of his speech.) He there states "that Arundel was appointed a captain of artillery, to take rank the 5th of February, 1776; that he was ordered to Virginia, where, in May, 1776, he was put in command of a company of artillery; that, on the 26th of November, 1776, Congress resolved to raise a regiment of artillery in Virginia, and the two companies there in service were incorporated into and made a part of it—the whole consisting of ten companies. The Journal of November 30th, 1776, contains the names of all the field officers of the regiment and of the ten companies; but the name of Captain Arundel is not among them. He must, therefore, have left the service before that date. That numerous rolls of that regiment are preserved; but the name of Captain Arundel is not on any of them. That, by an account in the office of the Third Auditor, it appears that Captain Arundel was paid $208 45—no date mentioned; but which Mr. Hall computes to be for seven months' service; and from this, also, he concludes that Arundel must have left the service—for which service of seven months, Mr. Hall affirms that the Virginia Executive allowed 5,082 acres of land, worth $6,353."

It appears to your committee, when the land bounty was allowed by the Executive of Virginia to the heirs of Captain Dohicky Arundel, the record evidence showed that Arundel was in the continental service in command of a company of artillery on the continental establishment in Virginia in May, 1776; that the said company, under his command, was, on the 8th day of July, 1776, in the battle at Gwin's Island in Virginia, in which battle Captain Arundel was killed. The fact of his being thus killed, is found in the 7th volume of the Virginia Gazette, in the library of the State. A circumstantial account of the battle is given in the Virginia Gazette above referred to, under date of the 19th of July, 1776. Among other statements in relation to the battle, filed among the vouchers, is the following: That Captain Arundel being scarce of ordnance, prepared a field-piece of wood, which he caused to be strongly banded with iron; that, at the commencement of the battle, this gun was discharged once; that, on the second discharge, it burst and killed Arundel. The death of Captain Arundel being thus proven to the satisfaction of the Executive of Virginia, the land which would have been due to him, had he lived and served to the end of the war, was allowed to his heirs, in pursuance of the provision of the act of the Virginia Assembly passed in 1779, and referred to above.

The committee will call the attention of the House to the striking illustration here furnished of the little reliance to be placed on the partial "rolls," so frequently quoted as conclusive authority by the author of the report in question. "His name is not found on any of the rolls." They are referred to at various periods; but Captain Arundel's name can nowhere be found. An ingenious mode of argument is adopted, evidently with a view to show he resigned "as early as the 25th of September, 1776;" yet, after all, it appears he died in battle, fighting gallantly in defence of the country, on the 8th of July, 1776. But the author was aware of the fact, that death in service might account, as well as resignation, for the absence

of his name on "the rolls," published thereafter; and, lest it should be proved, the answer, by anticipation, is given—that his heirs, even in that event, "would not have been entitled to the bounty; he being a foreign officer, and not incorporated into the Virginia line."

This, like many other bold assertions of the author, has no just foundation in law or in fact. Foreign officers, serving in the Virginia line the requisite period, became as much entitled to the land bounty as those who were citizens. The *generals* and *certain* staff officers must have been citizens before they could become entitled to half-pay; but an officer who held *command* in the Virginia line, was as much entitled to land bounty as a citizen. That Capt. Arundel did command an artillery company raised in Virginia, is admitted by this author; and the evidence from the records of Virginia (see appendix) shows that Capt. Arundel regularly and repeatedly drew his supplies from the State of Virginia. A clearer case of right could not be made out. Without following the author of the report through each of his sixty four cases, so elaborately recited in the report No. 1063, we may divide them into classes, and will endeavor to show that about twenty-four of the cases turn upon a question of *law*, and not of *fact*. The question is, "*Whether the heirs of an officer who died in the service* are entitled to the same proportion of land bounty *to which the officer* would have been entitled *if he had lived and served to the end of the war?*" If the affirmative be true, it will be manifest, from the admissions in the report itself, that the following cases were rightfully allowed, viz: Captain John Blair, Ensign William B. Bunting, Lieutenant Colonel Richard Campbell, Major Matthew Donovan, Major Edmund Dickenson, Captain William Gregory, Captain Reuben Lipscomb, General Hugh Mercer, Colonel Richard Parker, Surgeon John Ramsay, Colonel Isaac Read, Lieutenant Colonel William Taliaferro, Lieutenant John Wilson, Lieutenant Edward Wade, and Captain John Washington—fifteen cases. It will also appear that the following other cases have been properly allowed upon the same principle, although not admitted by Mr. Hall, viz: Chaplain F. F. Dunlap, Lieutenant Colonel Charles Porterfield, Captain James Lemon, Lieutenant Jacob Moon, Captain William Kelly, Colonel Wm Crawford, Major John Brent, Captain Henry Field, and Colonel Thomas Bullett—nine other cases. All these twenty four officers died in service: and their heirs have been allowed the like quantity of land which the officers would have got, if they had survived *and had served to the end of the war.*

The words of the law are as follows, viz: "And where any officer, soldier, or sailor, shall have fallen or died in service, his heirs, or legal representatives, shall be entitled to and receive the same quantity of land as would have been due to such officer, soldier, or sailor, respectively, *had he been living.*"—(Oct. 1779; see 10 vol. Hen., p. 161.) It may here be mentioned, that no law at that period gave to an officer, *if living*, any bounty land, unless he served *to the end of the war;* and thus death in service became a sort of *constructive service to the end of the war.*

By the 4th section of the act of October 1780, (10th volume of Hening, page 375) an additional one third of former bounties was allowed to all the officers, &c. And this further provision was made. "That the legal representatives of any officer on continental or State establishment, *who may have died in the service* before the bounty of land granted by this or any former law, shall be entitled to demand and receive the same, in like manner as the officer himself might have done when living, agreeably to his rank." Here let it be repeated, no officer, if living,

could be entitled, unless he served *to the end of the war*. This act, again, then considers death in service, as equivalent to service *to the end of the war*. And no matter how long the officer may have died *before* the passage of any law promising land bounty, his heirs are expressly provided for. He may have been in service one day only, at the very beginning of the war; and, if killed then, his heirs are placed on the same footing as if he had served to the end of the war; they being entitled only to what he would have been, if living; and *he*, if living, not entitled at all, unless in service till the end of the war.

The next law on the subject, is the act of May session, 1782. (See 11 vol. Hen., page 84, sec. 9.) This gave his respective apportionment of land to each officer, who had served *three years*, without being superseded or cashiered; "and for every year which every officer or soldier may have continued, or shall hereafter continue in service beyond the term of six years, to be computed from the time he last went into service, he shall be entitled to one-sixth part, in addition to the quantity of land apportioned to his rank respectively."

Does this act enure to the benefit of those who had died in service? The war began in Virginia in July, 1775, and ended 3d November, 1783. The officer, *if living* at the end of the war, got land for eight years' service, if he had entered the service eight years before the 3d November, 1783. The heirs are to have the same the officer would have got, if living, at the end of the war. The death is, by law, declared to be equivalent to an actual service to the end of the war. By no law is any other bounty promised the heir, than such as the officer would have got *if living at the end of the war*.

What would all these deceased officers have got, if they had been alive at the end of the war? Obviously, the bounty due from the commencement of their respective services. Under the very words of the law, are the heirs not to have the same the officers would have got?

Again: look to the reason, the object of the law. Many officers had left the army, *entitled to nothing*. Yet they had served three, four, five, and six years. The Legislature was disposed to be liberal, and to make some return, to manifest some token of regard for what they *had done*. Hence this law of the summer of 1782—after the *fighting* was all over—*giving* the bounty to all who had served even three years. But while doing this, the Legislature thought it but just to make some further return to those who had made, or should make, still greater sacrifices for the country; and hence this additional sixth. Could the officers have made greater sacrifices than *dying* in the cause? If not, can it be presumed the Legislature, in this act of *mere bounty*, gratuity, after the war was over almost, intended to omit those who had rendered the greatest service in their power, and actually paid the penalty of their lives? Again: at the date of this law, under the resolves of Congress, most of the officers had retired under the recent arrangements, *confessedly* entitled to everything which *actual* services would give; and all such officers, though not in *actual* service, were considered, and without a single exception, on proper proof, received this additional sixth. Yet the law did not give it in so many words. Surely, the deceased officer was as much within the law as the retired or deranged officer, no matter at how late a period he became deranged.

These and other reasons satisfied the Executive of Virginia that the heirs of an officer who entered the service more than six years before the close of the war, and died therein, were entitled to the same proportion of

land the officer would have been entitled to, if alive and in service at that close; and, accordingly, the bounty has been allowed, in each case, from the date of the officer's entering the service, to the close of the war.

The view thus taken of this question is understood to have been advised by some of the ablest members of the legal profession in Virginia, and to be now maintained as the true and correct interpretation of the Virginia law, notwithstanding the high authority of the opposing opinion of the late member from Vermont. Whether he or they be correct, it is clearly improper, in the opinion of your committee, to impute unworthy motives to the applicants who urged the claims under such circumstances, or to the Executive of Virginia for allowing them. Your committee concur in the construction which has been given by that Executive, and justify the allowances which have been made in cases properly embraced in the principle.

Let us now see how many other cases, besides the fifteen first above named as *admitted* by the learned commentator, will come within this principle. The first to which attention will be called, is the case of *Captain William Kelly*; and here is another striking illustration of the ease with which an accusation against a claim may be plausibly made, and of the difficulty in correcting the error, without a knowledge of minute details, which no committee can be presumed to possess in many cases. The narrative on pages 30 and 31 of Report No. 1063, concerning this case, appears to be irresistibly imposing; by the interpolation of a few words in the chain of evidence, it seems to be perfect and complete. Hartley's regiment is represented as belonging to the *Pennsylvania line*. And so it did *at one period*; but *it did not so belong* at the time of the death of Captain Kelly, on the 9th September, 1777. It was an *independent regiment*, and belonged to the line of no State, until the resolution of Congress of the 16th day of December, 1778. (See the Journal of Congress, vol. 3, page 158.) From that time forward, it was a part of the Pennsylvania line. But Captain Kelly had died in service on the 9th September, 1777, (fifteen months before,) as the records conclusively show. He was a Virginian, and his case was precisely such as was intended to be covered by the resolution of 1779. The blunder of the author becomes apparent; but, in the mean time, the harshest imputations against the claimant and his judges have been circulated far and wide throughout the broad limits of our country. It is but a poor recompense to him, or them, now to say it was an *historical mistake* of the author of that report.

The next case to be noticed of those officers *who died in service*, is that of *Captain James Lemon*. The author (p. 32 of Report 1063) says: "His name is not found on any of the rolls or records now remaining; nor was he paid by Virginia, under the act of November 1781, nor by the United States, *on her final settlement* with the officers of the army. Nevertheless, his heirs on the 30th October, 1838, were allowed 5,169 acres for a service of 7 years and 9 months, *to any part of which it is altogether impossible* they could have been entitled."

Here is another striking example of the imperfect and delusive character of the author's "rolls," and of the hardihood of assertion so frequently encountered in this report. Because the author did not know where to look for the evidence of this officer's services, or was unwilling to look at any other sources of information than "the rolls," (notwithstanding he had been admonished by the vigilant officers of the Treasury and War Departments of their imperfect and defective character,) he undertakes to say, "to

any part of which (land bounty) it is *altogether impossible* they (the heirs) could have been entitled."

And yet, if the author had gone to the United States bounty land office, and asked if this officer had died in service, he would have been told a warrant (No. 1,288) had been issued about the year 1790 to his brother William Lemon, in consequence of his having been killed in battle. The records show the fact; but because it did not appear on "the rolls," which the author would seem to make the sole guide, he pronounced it *altogether impossible* that the heirs could have been entitled to any part of this land bounty.

The next case of this description is that of *Lieutenant Jacob Moon*—printed Jacob *Moore*—see page 33 of report 1063. The author says: "He was never an officer of the line, and never entitled to any bounty. He was paymaster of the 14th regiment, and resigned 28th August, 1788, as appears by his letter of resignation among the Washington Papers." The evidence on which the claim to land bounty was allowed, was in fact as follows:

"I do hereby certify that Jacob Moon was a lieutenant in the army of the United States, on continental establishment; he entered into the service in the year 1776, and continued in service until the battle of Guilford, when he was killed by the enemy in action.

Given under my hand this 25th day of October, 1808.

SAMUEL ARNOLD,
2d Lieut. 5th Va. Reg.

"Sworn to on the 26th October, 1808."

Here, then, is the positive affidavit of a brother officer, who was probably an eye witness of the death in service. Without taking the time to trace the sources of the author's error, your committee can see the two statements, so far as the records are concerned, may readily be reconciled, by supposing that to have occurred in this case, which was very common in the army—that Lieutenant Moon resigned his *staff* appointment, without giving up his commission in the line. At all events, here is the positive and conclusive proof that Lieutenant Moon died in service, having been killed by the enemy in action.

Another case cited by the author of this report, is Lieutenant Colonel Charles Porterfield. The facts are all beyond cavil and dispute; and the only question peculiar to this case, as distinguishing it from the others where the officers died in service, is, whether an officer who had served three years in the continental line, and then joined the *State* line, and again served the requisite period, could be entitled to draw the bounty in *each*? Without going into any regular discussion of this legal question, it may be observed, the learned author was mistaken in supposing the question was a *new one* in 1808, when the 4,000 acres were drawn for the 3 years of Captain Porterfield's services in the continental line. As early as the 29th day of November, 1782, *long before the deed of cession by Virginia*, Captain Thomas H. Drew was allowed 4,000 acres for three years' service in the Virginia *continental* line, and drew his warrant, No. 23. On the 10th day of December, 1782, he was allowed a like quantity of land for a service of another three years in the Virginia *State* line, and drew his warrant, No. 47. On the 17th April, 1783, David Griffith was allowed 6,000 acres for three years' services as a *chaplain* in the Virginia continental

line, and drew his warrant, No. 352; *and on the same day* was allowed a further bounty of 6,000 acres, as a *surgeon* for another term of three years' services. It will thus be seen the allowance to Colonel Porterfield's heirs, for his services as a captain in the *continental* line for three years, and then as a lieutenant-colonel in the *State* line, was in pursuance of a principle settled by Virginia long before her deed of cession, and not from the unworthy motive so frequently insinuated by the learned author. Whether this principle, which was thus adopted by the Executive of Virginia sixty-two years ago, was *correctly* decided or not, your committee will not now stop to inquire, as there seems to be no good reason for making an exception of the gallant Colonel Porterfield's case.

The case of *Colonel William Crawford's heirs* is cited on page 27 of Report 1063. His death in service is admitted; but, because he is said to have resigned his commission as colonel in the continental line on 10th February, 1781, it is contended he ought not to be allowed the bounty due to the heirs of those *who died in the service*. In reply, it need only be observed, that resignations frequently occurred without the parties leaving the service for even a day. An officer resigns in one line, to enter into another. In Colonel Crawford's case, it was satisfactorily shown that his had been a continued *service*, and that he had been killed by the enemy.

Another case cited by this author, is that of *Lieutenant Henry Field*—(see page 29 of Report 1063.) We are told he resigned 3d August, 1776, "having served a few days over six months." "His name does not *appear on the rolls* after the date of his resignation." Yet, if the author had referred to Document No 6, page 86, of the report of Commissioner Smith to the Legislature of Virginia, dated 10th December, 1835, copies of which are in several of the public offices in this city, he would have seen the name of this officer *frequently* on the public records *after* the date of this resignation; which was tendered, your committee have no doubt, because Lieutenant Field's health was enfeebled at the south. From an inspection of these records, the commissioner reported, "his heirs are entitled to additional bounty land." The proof in this case, taken from the *records* in part, and obtained from witnesses in 1797 and in 1804, shows that Lieutenant Field died while in service. The certificate of General Muhlenberg is as follows:

"PHILADELPHIA, *March* 24, 1804.

"I do hereby certify: That, having carefully examined my books, and the papers in my hands, which contain memorandums, &c., relative to the 8th Virginia regiment, I am enabled to state, that in 1776 Mr. Henry Field was appointed a lieutenant in the 8th regiment, Captain George Slaughter's company; that he marched with the regiment to the southward, where he was taken sick, and obtained a furlough from me permitting him to return to Virginia, and there to remain until his health should be restored. The last return made to me of the 8th regiment was in February, 1777, and signed by Abm. Bowman, lieutenant colonel. In this return, Lieut. Field is stated to be absent, with leave, for the recovery of his health. I cannot find anything in my papers that could lead me to believe that Mr. Field had resigned; on the contrary, I have every reason to believe that he was considered as being in the service to the day of his death. I am led to this belief by the following circumstances: In a report made to the commander-in-chief of the whole Virginia line, I find Lieut. Field reported *died*, while

several other officers of the same regiment are reported *resigned*. Had Mr. Field been considered as having resigned his commission, the vacancy occasioned by his resignation would certainly have been filled, and a junior officer promoted. This was not done until the death of Mr. Field was known.

"P. MUHLENBERG, *late Major General*."

The solution of the difficulty presented by these conflicting records is, no doubt, this: Lieut. Field's health failing him, he sent in his resignation, but his commanding officer told him to go home, and remain till his health was restored. That this was done in numerous instances, is well known. The returns of the regiment in this very case show he was reported as having *died*, while several other officers of the same regiment are reported as "resigned." "Had Mr. Field been considered as having resigned his commission, the vacancy occasioned by his resignation would certainly have been filled, and a junior officer promoted. This was not done until the death of Mr. Field was known." The resignation having been sent in, was retained by the adjutant, and, with his papers, were finally returned to the public offices.

Another case cited is that of *Major John Brent*.—(See page 26 of Report 1063.) After serving more than two years and eight months, (instead of two years two months and eight days, as stated by Mr. Hall,) he is said to have resigned his commission. It may be well here to remark, that the author of the reports now under review seems invariably to date the commencement of an officer's service with the receipt of his commission, without recollecting that he may have been a long time in service before he received his commission, or even an appointment. Some of the highest officers of the army served in the *ranks* during the early period of the war, and, of course, before the date of their commissions; yet, when the time of settlement arrived, the allowance was made from the commencement of the service of the individual, whether in the one capacity or the other. This rule has been the universal one on which all allowances were made. Apparently unconscious of it, the author of these reports has fallen into numberless errors, by assigning the commencement of the service to the date of the officer's commission, and deciding peremptorily that the person did not serve three years, whenever a resignation is found within that period from the *date* of the commission.

In Major Brent's case this error is a matter of but little consequence, as he could not have been in service three years before the resignation is said to have occurred. The evidence of Major Brent's being still in service at the time of his death, *may have been* erroneous. The resignation bearing date 4th May, 1778, would seem to make the case *prima facie* against the claimant, unless the testimony of four witnesses, cotemporaries of Major Brent, be considered sufficient to outweigh it. And when it is considered how many of these alleged resignations are shown to be erroneous, by incontrovertible evidence from the records themselves, we are by no means willing to give such weight to them as appears to be claimed by the learned author. At all events, in this case Major Brent was more than two and a half years in actual service; and after participating in the severe battles at the north in the fall of 1777, and undergoing the suffering of the succeeding memorable winter, his health was sacrificed, and he returned to Virginia, and died without ever being restored. If he ceased to be an officer—if his resignation was accepted within the three years, his heirs had no strictly legal claim to the

land bounty. But, in any aspect of the case, so far from feeling a prejudice or resentment against the claimants, the only regret should be, that the stern administration of strict law should have to curtail the bounties of the Government to the descendants of a gallant officer, who as effectually lost his life in the service of his country as if he had been killed by the enemy.

Chaplain F. F. Dunlap.—The evidence in this case shows, beyond all doubt, that this officer died in service at the very beginning of the war; and hence his name does not, of necessity, appear on any of "the rolls," so frequently vouched by the learned author. Having died at the commencement of the war, his heirs were allowed the same bounty the officer would have received, if *living*, at the end of the war.

The Virginia Gazette of the 10th May, 1776, published the obituary of this chaplain of the 6th Virginia regiment; and the other testimony in the case was only necessary to show his *identity*, and the chain of title in the claimants as his representatives.

We have thus reviewed twenty four cases of allowances to the heirs of officers *who died in the service;* and, so far from all being bad, as alleged by the author of the former reports, they are shown to be *just*. We have not a doubt about *any one* of them, except Major Brent's; and even in that, there are strong probabilities in its favor.

These twenty four cases have not been selected. They comprise the *whole* of that class enumerated in the list of Mr. Hall.

The next class of cases to which your committee will ask the attention of the House, embraces the claims of the officers of the regiment of guards. The whole of these have been denounced by the author of the reports now under consideration.

The cases recited are those of Colonel Francis Taylor, Lieutenant Colonel William Fontaine, Major John Roberts, Captains Garland Burnley, James Burton, John Taylor, Ambrose Madison, Benjamin Timberlake, John Thomas, James Purvis, Surgeon Charles Taylor, Lieutenant Richard Paulett, and Ensign S. O. Pettus—thirteen officers.

Several of these officers had served in the Virginia regiments prior to their reduction in the autumn of 1778, when they became supernumerary, and were so at the time the regiment of guards was raised, when they were again called into service. Some of these officers were entitled to land bounty, whether they had ever entered this regiment or not. The author of these reports *admits* that, (see page 46 of Report No. 436,) where he says, in referring to the officers of this regiment, "none of them received land at that period from Virginia, for services to the end of the war; *which they would have been entitled to, had they been retiring* or *supernumerary* officers, or applied for it as such officers."

It appears to your committee to have been a question, at the close of the Revolution, whether these officers of the regiment of guards should or should not be considered on the same footing, in regard to land bounty and half pay, as other continental officers. The opinion of the majority of the Legislature of Virginia at that day seems to have been against the pretensions of these officers. But your committee will further remark, that, apparently from the impossibility of meeting the engagements of the State, she almost uniformly decided all questions, raised in behalf of the officers, against them, if the least doubt of their strictly legal character was entertained. She decided against the claims to half pay of the supernumerary

officers of her State line, and they were excluded for many years. But when she became better able to pay, she relaxed in the severity of her judgment, and ultimately all were paid. That a well grounded doubt was entertained, is shown by the contrary decisions of the Legislature itself, and the divided opinions of the judges in the courts of last resort. It appears to your committee that a legislative decision at that early day, under such circumstances, should not be regarded as very high authority—especially as it will appear hereafter that many classes of claims, now admitted on all hands to be just, were then construed too strictly, and in prejudice of the rights of the officers and soldiers. Whether the claim of Colonel Francis Taylor to land bounty and half pay was of that character, will presently be shown to have been the settled decision of the heads of the War and Treasury Departments of this Government, of the Executive of Virginia, of the committees of Congress, and the solemn and repeated decisions of both Houses, after full and laborious investigations of all the laws and facts touching these cases. This is not a class of claims that has been imposed upon the Government by artful concealments and suppressions, as the author of the reports before us would insinuate. The *facts* are clearly stated, and the arguments in favor of the officers have been presented openly and fairly to intelligent minds, which have been convinced of their preponderating weight; and the validity of the claims has been admitted, upon this fair discussion, by every department of both Governments. On one side, are the authority of Virginia, and the solemn decisions of the several heads of the War and Treasury Departments, the committees of Congress in numerous instances, and of Congress itself; on the other side, is the opinion of the author of these reports. Although the weight of authority would thus seem to be in favor of the claimants, we will not withhold the expression of our own opinion, that the decisions of Congress were *right*.

The resolution of the 19th of December, 1778, of the House of Delegates of Virginia, referred to in Report No. 436, page 43, was passed, because it was exceedingly burdensome and inconvenient to impose the duties to be performed on the *militia*. The preamble and resolution were as follows:

"Whereas it will be exceedingly burdensome and inconvenient to the inhabitants of this Commonwealth to keep so large a body of militia on constant duty, as will be necessary to guard the British prisoners which now are, or hereafter may be, stationed in this Commonwealth:

"*Resolved*, That the Governor, with the advice of the Council, shall be, and he is hereby, empowered to raise, as soon as possible, by voluntary enlistments, a regiment of soldiers, to consist of six hundred men, rank and file, with proper officers to command them, for the particular purpose of guarding the British prisoners aforesaid; and that he is empowered to offer a bounty not exceeding thirty dollars to each man to be so enlisted; and this House will make good the expense of raising, maintaining, clothing, and paying the said regiment; and that, until such regiment be raised, the Governor is hereby empowered, with the advice of the Council, to call out detachments of militia for the purpose of guarding the said prisoners."

It will be obvious that this was *not* a militia corps, but a regiment to be raised and officered by the State, for the purpose of relieving the militia; and was contemplated to be continued in service so long as the necessity continued, even if it should be unto the end of the war. On the 9th of January, 1779, Congress adopted the following resolves:

"*Resolved*, That a battalion, consisting of six hundred men, properly

officered, be forthwith raised on *continental establishment* in Virginia, for the space of one year from the time of their enlistment, unless sooner discharged, under the direction of the Governor and Council of that State, who are hereby empowered to appoint the officers of the said battalion out of those of the Virginia line, *who have been left out of the late arrangement of the continental army*, as far as their numbers will reach; the regiment to consist of one lieutenant colonel, commandant and captain, one major and captain, six captains, one captain lieutenant, seven lieutenants, nine ensigns, one surgeon, one surgeon's mate, eight companies of 75 men each, including corporals, three sergeants, one drum, and one fife, to each company.

"*Resolved*, That these troops be stationed at, and not removed (except to such distance as the duty of the post may require) from, the barracks in Albemarle county, as guards over the convention troops; that they receive the usual pay of the continental army, and a suit of clothes as a bounty to each non-commissioned officer and private.

"*Resolved*, That as soon as the said regiment shall be so far completed as to be able to do the duty of the post, the militia now in service there be discharged."

By these resolves the regiment was, in so many words, placed on the *continental establishment*. A special express power is given to Virginia to commission the officers, but she is required to select those *supernumerary* officers of the *continental* line, who had been left out of the late arrangement of the army, as far as their number will reach. The men were to be selected for one year, if not sooner discharged. But no *length of time* was specified, or could be specified, in the officers' commissions; they were, in that particular, like all other commissions. At the end of the year, when new *enlistments* of men became necessary, there was no such renewal of *commissions*, and, accordingly, we find the regiment did actually continue in service till June, 1781, about $2\frac{1}{2}$ years, without any such renewal of the officers' commissions. That the officers would have been liable to trial by court martial, if they had absented themselves without leave, at the end of one year, is illustrated, not only by the fact of their actual continuance in service without new commissions, but by the order that the continental officers, who were *then supernumerary*, should perform the service. If one of those officers, without having resigned his commission, had refused to join the regiment, he would himself have been as liable to arrest as if he had refused to obey a recruiting or any other order. In a word, he was called into service again, to continue so long as the exigency required, without limitation; and, accordingly, some of them did actually continue for two and a half years in actual service in that regiment.

It can hardly be necessary to say anything further to show that the regiment was a continental one. The troops of the Revolution were upon *continental* or upon *State* establishment. By the resolve of Congress, this battalion was expressly directed to be placed on *continental* establishment. It was always *paid* as *such*, and in the registers *of the army* this regiment was always classed among the *continental* corps. This we may be able to show by the certificate of the auditor of public accounts of Virginia.—(See appendix, marked B 1.)

The argument of the author, on page 41 of Report 436, derived from a distinction between officers of the "continental line" and "on continental *establishment*," appears rather too refined. At all events, it falls to the ground when we turn to the original half pay act of May, 1779, (vol. 10

Hening, page 25,) where the half pay is expressly promised to all officers of the continental *establishment*. The words of that act are, "All general officers of the army, being citizens of this Commonwealth, and all field officers, captains, and subalterns, commanding, or who shall command, in the battalions of this Commonwealth on *continental establishment*, or serving in the battalions for the immediate defence of this State, or for the defence of the United States; and all chaplains, &c., &c., *provided* Congress do not make a tantamount provision for them, who shall serve henceforward, or from the time of their being commissioned, until the end of the war. And all such officers who *have* or *shall become* supernumerary, on the reduction of any of the said battalions, and shall again enter into the said service, if required so to do, in the same or any higher rank, and continue therein until the end of the war, shall be entitled to half pay during life, to commence from the determination of their command or service."

It is obvious that it was contemplated the supernumerary officers might be recalled into service, and, if they obeyed, they might be entitled to half pay. But, it is said, the fact of a corps being paid by Congress, could not make it a continental corps; and the illustration is given of the resolves of the 10th of December, 1779, in regard to the State corps of cavalry and infantry ordered to Charlottesville; the resolve was, "that they be considered on continental service, and receive continental pay and rations while doing duty at the convention barracks." And the author adds, "it cannot be supposed that this temporary employment of State troops gave their officers any right to claim continental land bounties or half pay."

The obvious difference in the two cases is this: the one corps *was to be considered* in continental service, &c., &c., "*while doing duty* at the convention barracks." You have no right to infer that they were to be considered in *continental service* for any other period of time; the limitation is definite and precise as to time. Not so, with the officers of that regiment; so far as *time* is concerned, there was no limitation in their commissions, they held them as other officers did. It has not been contended that the receipt of pay from the continental officers would attach the recipients, in all cases, to the continental line. But when the law directed a particular regiment to be *raised on continental establishment*, and the regiment was raised, and was regularly paid as other *continental* regiments, that payment does strengthen the proof that the intention of the law maker was actually carried out, and that the regiment was a *continental regiment*. Mr. Jefferson so considered it, and claimed credit for it as a part of the Virginia quota.

But it is objected, first, the battalion was to be raised for one year. The answer is, the soldiers were enlisted for one year. But they were re-enlisted again and again. The officers, however, continued without any renewal of commission, or new appointment, for two and a half years—a fact conclusive, *per se*, that the limitation of one year did not apply to *them*.

The next objection is, the officers were to be appointed, not by Congress, but by the Governor of Virginia. The answer is, Congress *directed* the commissions to be issued in that way; Congress could *by law* (Virginia consenting) accept as a continental regiment, one that had previously been raised and officered by Virginia—it would be absurd to deny it; and if it could accept a regiment thus *previously completed* by Virginia, could it not direct a regiment *to be* thus raised and completed?

The third objection is, that the regiment was not bound to military ser-

vice *generally*—"not even to repel an invasion of the State, but was to be stationed at, and not removed from, the barracks in Albemarle county, as guards over the convention troops."

Your committee cannot concur in any such construction as that this regiment could not be ordered out of the barracks, "even to repel invasion." On the contrary, we know the fact, that a part of this regiment was actually removed to the Winchester barracks; and this fact sufficiently refutes the argument. But we might admit the intention of the law was, that the regiment should remain at Charlottesville, and that it may never have left the barracks. Would that prove the intention could not have been changed? Suppose the law had directed the regiment to be raised for the western defence, and under no circumstances to be brought to the east: would that constitute such a *contract* with the officers and soldiers as that they could not by a subsequent law be brought back to the neighborhood of their homes? We construe that limitation more as a direction to the Executive—a limitation upon *its* power—than as a contract with the soldier. Of course, the soldier, seeing the intention of Congress, would take that into his estimate when about to enlist; but it would be rather a strange construction of the law to suppose the regiment could not be called on to repel invasion, or to remove from the approach of superior force against it.

If Congress had conceived it necessary to establish barracks at Kaskaskia, and had directed a regiment to be raised in Virginia for three years, substituting Kaskaskia for Albemarle, and making no other changes in the phraseology of this resolve, could it be imagined the same authority of Congress could not within twelve months thereafter have broken up the barracks, and established them at Pittsburg, or Staunton, without a violation of contract with the soldier? But as the fact that a part of this regiment was actually moved with the prisoners to the *Winchester* barracks sufficiently answers this argument, all further commentary is a waste of time.

The author says, the half pay was designed for the officers who should serve to the end of the war, or be left out of command in the contemplated reductions; and he adds, "It would be an absurdity to apply these resolutions to a body of State officers, like this of the convention guards, appointed to a local and desirable service, and not bound to serve to the end of the war." This is a *dictum*, as we think, entirely unwarranted, first, in saying they were *State* officers, when the resolve of 1779 directed the battalion to be raised—not upon *State*, but upon *continental* establishment; and, secondly, in affirming roundly, that these officers were not bound to serve to the end of the war. That is the very question in issue; the author first assumes this fact, and then says it would be absurd to suppose the officers, not thus bound, could be entitled to half-pay.

The engagement of the officer was either for the precise term of one year, (unless sooner discharged,) or it was *indefinite;* and, therefore, he, like all other officers, was to continue until the end of the contest, unless sooner permitted to resign. But we have seen that the regiment was *not* disbanded till long after the expiration of the year—indeed, not until two and a half years' actual service. Is this not, itself, entirely conclusive that the engagement of the *officers* was not for one year, or any other definite period? It seems so to us.

The next objection urged, is the cotemporaneous construction of the law by the Legislature. This was, in reality, the most serious obstacle the claimants had to surmount; for the *argument*, when fairly stated, has but

little force in it. We have already stated, that Virginia, like all the other States, at the close of the war, was wholly unable to meet her engagements. So distant was the prospect of payment of admitted claims, that the certificates of public debt were depreciated to 2*s.* 6*d.* in the pound. Under such circumstances, the necessities of the State required the most rigid economy; and whenever she had a reasonable doubt about the strictly legal and equitable character of a claim, she felt constrained to oppose it. There was something peculiar in the situation of the officers of the regiments of guards, and doubts were entertained whether they were entitled to all the bounties in land and half pay which were promised the other continental officers. So far from the narrative being correct, as given on page 46 of Report 436, that these officers did not then consider themselves entitled to the land or half pay, your committee think the contrary appears on the very papers referred to by the author. He quotes the journal of the House of Delegates of the 28th May, 1783, in Colonel Francis Taylor's case, thus:

"A memorial of Francis Taylor, colonel of the late regiment of guards, on behalf of himself, and the officers and soldiers of the said regiment, was presented to the House, and read, setting forth that the said regiment was raised by a resolution of Assembly of the 19th of December, 1778, taken upon continental establishment by a resolution of Congress of the 9th of January, 1779, and disbanded in the month of June, 1781; and that said regiment never received any pay, but in depreciated paper money; and praying that the pay of the said regiment may be made good, in the same manner with that of other troops in the service of this State; also, stating that the memorialist, from five years' service in the army, first as a major in the continental line, and then as colonel of the said regiment, conceives himself entitled to the half pay of a colonel, and praying that such half pay may be made good to him;" and then proceeds to say—

"On this petition, it may be observed, that the claim to half pay is not made by Colonel Taylor, as a retiring officer from the regiment of guards, but for a service of five years—the first part of which he states to have been in the continental line, and the latter part in the regiment of guards; clearly implying that, in his understanding, the latter service was not in the continental line. The said memorial was referred to a committee, which, on the 5th of June, made a favorable report on the application for the depreciation pay of the officers and soldiers of the regiment; and reported that such part of the memorial as prayed for half pay for life, for himself, be rejected: which report was accepted by the House, and resolutions to that effect were adopted. Colonel Taylor then, on the 17th of June, presented his petition for land bounty; which being referred, the committee, on the 26th of June, made a report, with several resolutions; which report and resolutions were read three times, and agreed to by the House, as follows:

"'It appears to the committee, that the said Francis Taylor was, in the year 1776, appointed a captain of a company in the 2d Virginia regiment; that he continued to act in that capacity until the year 1778, when he was appointed a major; and, by the arrangement at White Plains in the month of September, in the said year, he became a supernumerary officer, being a junior major.

"'It also appears that the said Francis Taylor was on the 24th of December, in the said year 1778, appointed and commissioned a lieutenant colonel of the battalion of volunteers to guard the British prisoners; that, on the 5th of March following, he was appointed and commissioned colo-

nel of the said regiment, *and continued in the service till the month of June*, 1781, *when the said regiment was disbanded.*

"'*Resolved, in the opinion of this committee*, That the petition of the said Francis Taylor is reasonable.

"'*Resolved, in the opinion of this committee*, That the said Francis Taylor ought to be allowed the same bounty in lands, as is given by law to a *major* in the continental line.'

"From these proceedings we learn that there was no pretence, at the close of the war, that the officers of the guards were retiring officers; and from the fact that Colonel Taylor was allowed land only for the rank he held in the continental line, (viz: that of major,) it may be fairly inferred that service in the regiment of guards was not looked upon as a service entitled to peculiar favor."

It is somewhat remarkable that the author should overlook the *positive averment*, by Colonel Taylor, that the regiment was taken upon *continental* establishment by Congress on the 9th of January, 1779, while the seeming distinction between the *continental* line and the regiment of guards is so eagerly seized upon.

The other note of observation, that Colonel Taylor rested his claim not on his being a retiring officer, but on his five years' service, is positively inaccurate, notwithstanding the round and unqualified manner in which the statement is made. If the author had reflected for a moment, he must have known that Colonel Taylor would not, and no other officer would, have asked the half pay for services that had ended two years before the close of the war, unless he thought there was some ground to justify the pretension as a retiring or supernumerary officer. It is the more surprising that the author should leave the impression on the mind of the reader that Colonel Taylor did not consider service in the regiment of guards as *continental* service, when we find the author quotes all the notices on the journals respecting Colonel Taylor's application, *except* that which can leave no doubt whatever on the mind of any reader that Colonel Taylor *did* consider, and *so stated* in his memorial, that service in the regiment of guards was *continental* service. The entry on the journal, of June 18, 1783, is as follows: "Also, a petition of Francis Taylor, setting forth that he had served as an officer belonging to the quota of this State, in the *continental line*, upwards of five years, and finds himself excluded from the bounty of lands, and prays relief." The author did refer to this memorial, and thus it is presumed he saw it; which makes the omission more surprising, as this quotation, in connexion with the rest, would have shown that there was no foundation whatever *for the alleged clear implication* "that, in his understanding, the latter service was not in the continental line."

The author, on page 47 of No. 436, in summing up the results of his argument against this regiment, says: "It is thus seen that, down to the year 1791, this idea had not occurred that the officers of this regiment of guards were, in any sense, supernumerary officers, and, as such, entitled to either land or commutation. The discovery is of *modern* origin, and is at least entitled to the merit of ingenuity."

How far this statement is true, will appear by reference to Report No. 608, made by the same author on the 23d of June, 1840, to the House. It there appears Colonel Taylor petitioned Congress for commutation, or half pay, on the ground that the regiment of guards was a continental regiment. A report in the case was made on the 22d of February, 1791, (the petition

having doubtless been presented in 1790, and not 1791, as stated.) The Secretary of War gives it as *his opinion*, that this was a *State* regiment; but, fortunately for Colonel Taylor's heirs, he gave his reasons, and the supposed state of facts on which they rested; and as the Secretary was mistaken in regard to them in a material respect, his opinion loses its weight. It will be seen that he refers to the resolution of Congress of the 10th of December, 1779, as proof that this was a *State* regiment. That resolution was as follows:

"*Resolved*, That Governor Jefferson be informed that Congress approve of the measures taken by the Executive of the State of Virginia in sending to the post of Charlottesville, as guards to the convention troops, a new-raised battalion of infantry, and a troop of light horse of their State troops; and that those troops be considered in continental service, and receive continental pay and rations, while doing duty at the convention barracks.

"That the board of war be directed to order the party of Colonel Bland's regiment of light dragoons, now at Charlottesville, to proceed to South Carolina forthwith, and join the regiment there.

"That Congress have every reason to be satisfied with the conduct, firmness, and prudence evidenced by Colonel Bland in his command at the convention barracks; but, as the state of his health and the situation of his private affairs will not permit him to remain in command at that post, General Washington be directed to appoint a successor in the command to Colonel Bland, who shall immediately proceed to the post, and take upon him the direction of affairs there."

"*Resolved*, That the resignation of Colonel Bland be accepted."

It is manifest that Secretary Knox considered the "new raised battalion of infantry and a troop of light dragoons of these State troops" as *the* regiment of guards; and his opinion seems to have been mainly dependent on that fact. The statement made by the author on page 44 of Report No. 436 recites, (accurately, no doubt,) the character of those troops. He there says: "It was the business of the continent to guard the Saratoga prisoners; and it is accordingly found that, when Governor Jefferson on an emergency ordered a battalion of infantry and a company of cavalry of State troops to Charlottesville, Congress immediately resolved (10th Dec., 1779) that they 'be considered in continental service, and receive continental pay and rations, while doing duty at the convention barracks! It cannot be supposed that this temporary employment of State troops gave their officers any right to claim continental land bounties or half pay."

This misapprehension of Secretary Knox deprives his opinion of the weight to which it would otherwise be entitled. At all events, it was a mere opinion; and although the claim was rejected, under the same influences which had induced Virginia to reject all such claims, where any doubt was entertained of their strictly legal character, yet it is seen the right was asserted with a sort of continual claim by the officers of that regiment, and that the discovery is by no means of "*modern origin*."

The resolutions adopted by the Legislature in 1783 were adverse to Colonel Taylor's claims to land or half pay, as they were also at that time against allowing half pay to the supernumerary officers. But it seems unauthorized to say there was no '*pretence*,' at the close of the war, that the officers of the guard were retiring officers. They claimed the half pay; but they were *all* supernumerary; and, as supernumeraries of the State line had been refused the half pay, and suits were depending to establish the principle whether they were entitled or not, it may have appeared un-

wise to press the claims of the regiment of guards, which were liable to the superadded objections arising from their isolated and peculiar character.

Your committee think there is no reason for supposing the officers did not become supernumerary, because the regiment was "discharged," or "disbanded," in June 1781. If the regiment had not been "discharged," if it had not been "disbanded," the officers would not have become supernumerary. Colonel Crockett's regiment was "disbanded" long before the end of the war; yet all the tribunals of the country, legislative, executive, and judicial, now admit the officers, in consequence of the regiment's being thus *disbanded*, became supernumerary, and, by consequence, entitled to half pay.

Having thus endeavored to show that officers of the regiment of guards were officers of the continental line, and that the allowances to them were just upon principle,—we will again repeat, the solemn decisions of Congress, of the various departments of the Government, and of the Executive of Virginia, have *settled* the question; and that those decisions cannot be successfully impeached, even by the learned author of these reports. We may, therefore, conclude that the thirteen cases already enumerated, and so much abused, were rightfully allowed.

Instead of recapitulating the various decisions of all the departments of the Government in favor of the officers of this regiment, we will merely refer to the reports of the committees, and to the laws in their respective cases, and the allowances made by the Treasury and War Departments under the land bounty laws, and the pension act of 15th May, 1828.

The next class of claims to Virginia land bounty, to which objection has been made as unfounded, embraces the *staff* officers. It will be seen that the learned author of these reports has denounced, for this reason, the cases of Colonel Thomas Bullett, Ev. Meade, Buller Claiborne, F. T. Brooke, John Fitzpatrick, Daniel Leet, Ambrose Madison, and R. H. Harrison.

He disposes of the case of Colonel Thomas Bullett in a very few words. He says: "Thomas Bullett was a deputy adjutant general, but he *held no rank in the army;* and, *being a staff officer*, was not entitled to any bounty."

We might be justified in giving a brief answer to this summary mode of despatching the case, by stating the fact that Colonel Bullett *did* hold the *rank of colonel* in the army. The resolution of Congress of 6th March, 1776, appointed him adjutant general, *with the rank of lieutenant colonel;* and on the 22d of February, 1777, Congress, by resolution, declared that Thomas Bullett *shall have the rank of colonel* in the *continental establishment.*

But the objection is, that he was a *staff* officer. Most of these officers held *rank* according to their respective grades; but not being a part of the *line*, they may properly be said to have held no rank *in the line*. Still, they were "in the army," were "officers," and held *rank*, as we see it specially stated by Congress in Colonel Bullett's case. All of the *military* staff of the army held rank, and received pay and rations accordingly. The medical staff and chaplains held no rank, and would have been excluded from the land bounty promised by Virginia, but for the special act in their favor passed at the October session 1779, unless the subsequent act of 1782 would have embraced them in its general terms of "any officer," and "every officer," in the ninth section of that law, (see 11th vol. Hen., p. 84.) It must be borne in mind that this last act was one of mere generosity and liberality, and extended the land bounty to a vast number of officers who

had no legal claim whatever prior to that time. That *this law* extended to the cases of surgeons, chaplains, and surgeons' mates, (all *staff* officers,) has never been doubted. Such an idea as that *they* would not be entitled, under *this law*, to the seventh year bounty, if they served seven years, has never been entertained by any one in Virginia, at any period of time, as is confidently believed. How, then, is it that one set of *staff* officers would be embraced by this law, and not another? The expression is, "that *any officer*," &c., who hath served three years, &c., shall have the land bounty; "and for every year which every officer or soldier may have continued, or shall hereafter continue in service beyond the term of six years," &c., "he shall be entitled to one-sixth part in addition to the quantity of the land apportioned to his *rank* respectively."

All admit the chaplains, surgeons, and surgeons' mates were entitled to the benefit of this last provision of the law, if they served over six years. No one has ever doubted it. Why, then, should the other staff officers be excluded? The terms are general, and embrace "all officers." The *suppositions* of the author of these reports now under review, (see last paragraph of page 18, Report No. 1063,) for the *distinction* between the staff officers and officers of *the line*, are refuted in his own next paragraph, where he shows that a special provision had actually been made for certain *staff* officers; placing them, in fact, on *more favorable* ground than even the officers of *the line*, inasmuch as the act gave to them the bounty for *three years'* service, which was extended to the officers of the line only in the event of service to the *end of the war*. And so the law remained for about three years longer, when the officers of the line, by the act of 1782, were placed on an equal footing with these staff officers, so far as the duration of the service was concerned. This plausible assignment of motive thus utterly falls to the ground. One other remark may be made, to show the inaccuracy of the author on page 19 of report 1063. After referring to the act of October session 1779, (10 Hen. p. 169,) stating the quantity of land due the officers of the line, he proceeds: "Another act of the same session (10 Hen. 141) *extended* it to regimental and brigade surgeons, surgeons' mates, and chaplains; thus excluding *surgeons and mates* in the hospitals."

By referring to the acts, it will be found that the bounty was given to the surgeons, &c. in the *first* instance, and was subsequently *extended* to the officers of *the line*, &c.; thus *reversing* the order of time, if those were the *first* acts giving the bounties; which, however, was not the fact. The next sentence of the author is equally unfortunate. He says: "The act of May, 1782, which gave the additional land bounty for over six years' service, gives depreciation and arrears of pay to 'military staff officers' of the continental line, but not the bounty." (11 Hen. p. 84, sec. 12.)

The obvious intention of this statement was to make the impression that the Legislature *denied the land bounty* to this class of officers. The reverse of the proposition is true. There was not an officer referred to in that section of the law, who was not clearly entitled to the *land bounty*, under prior laws, even upon the author's own admitted construction of them. He admits, in his previous paragraph, "If they (meaning the staff officers) belonged to the line, they were entitled to bounty according to their lineal rank, but to no other bounty." Now, this twelfth section refers to *such only*. The words are, "as also all military staff officers *appointed from* and *acting in* the Virginia continental line." It was, therefore, unnecessary to say one word about the *land bounty* in this section, as that had been authorized

already. But the previous act in regard to the depreciation and arrears of pay, appeared to have been limited to the officers of the Virginia continental *line;* and hence this section. It thus seems that the inaccurate readings of the author are thrown in, as make weights, against these claims. The carefully considered and deliberate decisions of the highest authorities of the commonwealth of Virginia are rejected as unworthy of respect—and all because the author misapplies the laws, and is misled by analogies from the action of Congress, which was restricted, in its liberality, by the fact, that it had not an acre of land of its own to give away, while Virginia had almost countless millions. No matter how near might have been the analogies prior to the passage of the act of 1782, they existed no longer; as that law extended its beneficent provisions to numbers who were never granted bounties by Congress—to "all officers," whether of the army or navy, who served three years successively in any military capacity. And here we may answer the objection to the allowances to surgeons and surgeon's mates of the *hospitals.* Whether they had been included or not, under the terms "brigade surgeons," the comprehensive terms of the subsequent act of 1782 were thought to be sufficient, as they were undoubtedly "officers" of the army. But they claimed to have been embraced in the terms "brigade surgeons," in contradistinction to *regimental surgeons.* It is said there were no *brigade* surgeons in the Virginia line, except the hospital surgeons. Whether this was so, or not, we are unable to say; but as the facts were before the Executive of Virginia, and it had full knowledge of the objections to this class, and yet was satisfied of the legality of the claims, we are not prepared to assent to the views urged by the learned author against them.

But we will return to Colonel Bullett's case. He was a citizen of Virginia, belonging to a corps on continental establishment, but not in the actual service of any other State, and was entitled to the same land bounty as if he had been a colonel *in the line* of Virginia. Such are almost the terms of the resolution of November 29, 1779. (See 10 Hen. 539.) That he held the *rank* of colonel, cannot be justly denied; and it is not possible to entertain a rational doubt of the legality of the claim upon any other ground than by denying him to have been "in any corps on continental establishment." We think the words "any corps" are very extensive, and would include all engaged in any military or naval service. Yet it seems doubts *were* entertained by the Legislature of Virginia in 1784, and the application of Cuthbert Bullett for the land was rejected. Although we do not see on what grounds it was rejected, we have ample proof that it was *not* for the reason supposed by the learned author, viz: that he was a staff officer; for on the very day on which the resolution of the *committee* was disagreed to by the *House*, it appears that the vote, almost immediately preceding, and on the same page of the journal, was in favor of Colonel Otway Bird, who professed to have served only eighteen months *in the line*, and about fourteen as *aid-de camp to General Lee*—the whole not being quite three years. Yet the Legislature allowed him the land bounty. The committee reported in favor of the devisee of Colonel Bullett; what induced the House to disagree to the resolution, does not appear. It *may* have been because it would not interfere on behalf of the *devisee*, to the exclusion of the other heirs. We deem it worthy of remark, in regard to the claims of the *staff* officers generally to land bounty, that there are various expressions in the different laws on the subject, that appear amply sufficient to cover all the staff officers. The 13th section of the act of 1782 (see 11 Hen. p. 85) provides

"that the navy officers, soldiers, and marines of this State, shall in all respects have the same claims, &c., as are allowed to the officers and soldiers in the land service of the same."

The expression here is *general*, and includes *all navy officers*, paymasters, and other staff officers, as fully as any others—the only limitation being that of graduating the bounty *according to the rank*. It must be recollected that there had been no enumeration in any of the laws of the various denominations and grades of navy officers; and bounties in land had been extended to the navy in general terms, that embraced the one as well as the other: the restrictions not being to the bounty given to like *classes* in the army, but simply that the *proportions* of land should be the same as to officers of *equal rank* in the land service. This *rank* is not specified as rank *in the line*, but rank in its general sense—which extended as much to staff officers, as to officers *in the line*.

The act of the October session, 1780, (10 Hen. 374, sec. 2,) provides "that any officer of this State on continental establishment, who hath died, or shall hereafter die in the service, and leave a widow, she shall receive annually, for the space of seven years, half pay of such officer, in specie," &c., &c. This provision of the Virginia laws extended to all classes of officers, and it might have been as reasonable to attempt to exclude officers of *the line*, as of the *staff*. The analogies of the learned author are drawn from the laws of Congress, which do not apply, and not from the Virginia acts. The third section of the act above referred to, provides, among other things, "that the *officers of this State*, in continental service, who shall continue therein to the end of the present war, shall receive half pay during life, or until they shall again be called into service." Here, it will be observed, are none of the qualifications in the resolves of Congress. This act extends to *all officers* of Virginia *in continental service*. Were not *staff* officers as clearly embraced, as officers in *the line*? In the 4th section of this act is the following provision: "And there shall be moreover allowed to all the officers of this State, on continental or State establishments, or to the legal representatives of such officers, according to their respective ranks, an additional bounty in lands, in the proportion of one-third of any former bounty heretofore granted them." As Colonel Bullett *ranked* as a colonel, and as every *colonel* (see page 169 of 10 Hen.) was entitled to 5,000 acres, his heirs became entitled, under *this law*, to 6,666⅔ acres.

We have not the slightest doubt of the legality of this claim of Colonel Bullett's heirs, notwithstanding his having been a *staff* officer, without ever having served in *the line* of the army. The act of Assembly of Virginia of October session, 1783, (11 Hen., 310,) after providing for the mode of surveying the lands due the officers, limits the *number* of the *surveys* or different tracts which each officer might hold under his warrants. It proceeds: "*Provided*, that a general officer shall not be allowed more than six, a field officer five, and a captain and subaltern four surveys, in their respective apportionments of land, *and the staff in proportion*." Here is a general recognition of the whole class of staff officers as being entitled to *land*. For, although it is *possible* those words might be satisfied by supposing the chaplains, surgeons, and surgeon's mates were intended; yet the fair interpretation would not thus limit the general expression of the law, which could, with almost equal brevity of expression, have thus limited and defined the legislative intention, if it had so existed. But, instead of referring to chaplains, surgeons, and surgeon's mates, the Legislature adopted

a general expression, which covered the whole class. That the staff officers, in many instances, before the close of the war, applied for their land bounties, based on those services, and were sustained by the competent authorities, will appear from sundry copies of the vouchers on which the claims were allowed in 1783. (See appendix, marked B 2.)

Proceeding upon the supposition that we have shown that *staff* officers were entitled to land bounty *from Virginia*, (we do not contend they were from the United States,) it may not be necessary to review the evidence in each of the eight cases referred to by the learned author.

In the case of F. T. Brooke, the claim not only rests upon the principles thus shown, as we think, to be correct; but upon the double services, as recognised in the cases of Capt. Thos. H. Drew, Surgeon and Chaplain David Griffiths, and Lieutenant Colonel Charles Porterfield, as already explained. In those cases, a sufficient length of service in one line or capacity was shown to entitle the officer to the bounty; and then, again, the same officer rendered sufficient service in the other line or capacity to entitle him to the bounty. But we will not again repeat the argument on this point, nor refer any further to these cases.

Another class of cases objected to by the author of these reports, is that of the *supernumerary* officers. He enumerates the cases of Captain James Davis, Thomas Blackwell, James Barnett, Richard Rouett, and William Stevenson. In addition to the remarks already made on this point, it will be observed, the author is not himself very well satisfied in regard to the legal objection. In Report No. 1063, page 28, he says of Captain James Davis, "he became a supernumerary September 30, 1778, after a service of about two years and two months. The laws of Virginia made no promise of the bounty to supernumeraries, and they were not allowed as such until many years after the war."

In Report No. 436, page 46, after having shown that the officers of the regiment of guards were in service only about two and a half years, and, as he contended, were not entitled to land bounty, he says: "The officers of the regiment did not, at that period, consider themselves retiring or supernumerary officers, but as officers discharged from the service by the disbanding of the regiment. Of this, there is abundant evidence. None of them received land at that period, from Virginia, for services to the end of the war; *which they would have been entitled to*, had they been retiring or *supernumerary* officers, or applied for it as such officers." Let it be borne in mind, the United States *paid*, and *do now pay*, the same land bounty to an officer who became supernumerary in 1778, as if he had served to the end of the war. The officer left the army for no fault of his; he entered the service for the war, and we are bound to suppose would have fulfilled his engagement. The substance of his engagement was, that he would serve so long as the other contracting party should require it. Whether he should be discharged at the end of one, two, or more years, either because the war was over, or had become but little more than a nominal war, or from economical motives on the part of the Government, was immaterial to him and his rights, so that he did all that was required of him by the Government. Such has been the invariable and uniform construction of the law by the Government of the United States; and when an officer shows he became a supernumerary, his right to United States land bounty is instantly admitted. The laws of Virginia were at least as favorable to the officers as the laws of the United States.

The courts of Virginia have settled the question, that a supernumerary

officer was an officer *in service*, although not in "*actual* service," so long as he held himself in readiness and liable to be called on by the Government. It was a constructive service, just as the service of all *retiring* officers was *constructive* service. It was never doubted that the officers who entered the service at the beginning of the war, and continued in *actual* service till after the arrangements of the army in 1780, 1781, and 1782, and then retired under the resolves of Congress, were entitled to land bounty from the beginning to the end of the war. All admit they were so entitled. The terms and stipulations in the resolves of Congress as to the retiring officers, could have no control over the laws of Virginia. Those laws had provided, that if an officer *served* over six years, he should have the additional bounty; and his retiring at a late period of the war, or his becoming supernumerary, still left him in *service*, and the land bounty was paid as if he had continued in *actual* service till the 3d day of November, 1783. A distinction may be attempted to be drawn, by saying Congress provided that those officers should retire with all the benefits specially reserved, &c.; but the answer is, these stipulations could not control the action of the laws of Virginia. By her laws, he was entitled to land for services till the 3d November, 1783, provided she considered him *in service* until that time; and it was only from the fact that the officer was considered *in service*, that he could be so entitled. It was *constructive* service, to be sure; for nine tenths of the army were out of *actual* service before the end of the war. It must then be conceded, that an officer, being supernumerary, did not sever his connexion with the *service;* he was liable to be recalled into service; and if he failed to obey, he forfeited his claims. What distinction can be drawn between an officer becoming supernumerary at one time more than another, so far as this legal question of his being *in service* is concerned? If his becoming supernumerary in 1782 left him still *in service* in the eye of the law, did he not remain *in service*, although he became supernumerary, at any time *before* that period? Let it be borne in mind, no one ever doubted, or even now doubts, as is supposed, that the same land bounty would be due an officer who became supernumerary in 1782, as if he had continued in actual service till the 3d November, 1783. It is then submitted, that no conceivable distinction can be pointed out between the supernumerary of 1778 and that of 1782. The moment he ceases to be *in service*, a period is put to the allowance, and no subsequent time can be estimated. That the Virginia law regarded the supernumerary of 1778 in a favorable light, and considered him *still in service*, will be seen by the terms of the act promising him *half pay*, provided he should not refuse to re enter the service, if called on. (See 10 Hen. 25, May session, 1779.) After promising the half pay to those who serve to the end of the war, the act proceeds: "And all such officers *who have*, or *shall become* supernumerary *on the reduction of any of the said battalions*, and shall again enter into the said service, if required so to do, in the same or any higher rank, and continue therein until the end of the war, shall be entitled to half pay during life, to commence from the determination of their command or service." The interpretation that has been given to this law is, that the supernumerary should have half pay from the determination of his *command* in the one case, (such as where he was not again called into active service,) and, in the other, from the determination of his actual service, (as where he may have been called into service again,) during which, he would, of course, get full pay. Here, then, the supernumerary

who *had left the army*, is promised the half pay for life, if he held himself ready to obey a call on him in the same or a higher rank. He might with impunity refuse, as any other officer could, to re enter into actual service in an inferior rank; but he was liable to be called on, as we have seen was the case, under the instructions of Congress, in the formation of the regiment of guards. He held his commission—was an officer—and, being liable to be called on, under penalties for disobedience, he was considered in service, in contemplation of law, just as much as an officer is *in service* who has an unlimited furlough.

In the latter part of 1782, the first Virginia military land warrants were issued to the officers and soldiers. On the 16th day of December, 1782, warrant No. 56 was issued to Captain John Peyton, for 4,060 acres, upon the certificate of the Commissioner of War that he entered the service on the 2d January, 1776, and *became supernumerary in October*, 1778. Subsequently, it seems, the Executive hesitated, or the officers doubted whether they could get their allowance from the Executive; and petitions were presented to the Legislature, in several cases of supernumeraries, for the bounty in land, which appears to have been uniformly allowed. The Executive subsequently allowed many of these claims. Whether it had ever doubted *their right*, does not appear, except from the fact that the officers, in some cases, presented their petitions to the Legislature. About the year 1807, no doubt whatever appears to have been entertained respecting them. At that time, an eminent jurist,* now the president of the Supreme Court of Appeals, was Governor of Virginia—a man alike proverbial for the purity of his whole life, as for his distinguished ability—surrounded, as he was, by eight able members of the privy council, who had to give their advice *in writing*, in every case, before the Governor could act upon it: the decisions of such a tribunal are entitled to as much respect as those of any court of justice in the country. By that Executive, every claim of the supernumerary officers was readily allowed; and scarcely a doubt, from that day to this, appears to have been entertained in the State as to the propriety of the allowance.

It is worthy of notice, that the act of 1782, giving the bounty for services over six years, did not refer to actual service. The expression is: "And for every year which every officer or soldier may have been continued, or shall hereafter *continue in service* beyond the term of six years, to be computed from the time he last went into service, he shall be entitled," &c. &c. The *continuance in service* may have been legal and constructive, (such as an officer being on *parole*, or in hospital, on furlough, or supernumerary;) or *actual*, as by being in the field or camp all the time.

In practice, the service has always been required to be *continued*. If the officer resigned one command to accept another, it was considered *continued service*; but if there ever was an *interval*, of no matter how short a time, the continuity was considered broken, and the computation would commence with the second engagement. So with the soldiers: if one enlistment expired, and the soldier re-enlisted immediately, the services were considered continuous. As to the supernumerary officer, if he was *in service* at all during the time he remained a supernumerary, he would be considered as in continual service to the end of the war.

These allowances of land to the supernumerary officers cannot be successfully assailed; and the insinuation that they were made by the Execu-

* Wm. H. Cabell.

tive of Virginia because the United States paid them, is wholly gratuitous and unwarranted.

Having thus shown that the assaults made upon the various *classes* (embracing, as they do, about fifty one individual claims) are unjust, the other special cases will now be examined.

Captain James Craine's case, Report 436, page 56.—Notwithstanding the plausible statement against this case, the evidence from the Executive of Virginia shows that the objections to it were susceptible of explanation. It seems the objection was endorsed by Thomas Meriwether, the clerk of the Council, on the voucher, that he had been superseded; and Captain Craine was called on for explanation. It was no doubt given, as lines were drawn across the objections, and the claim was allowed. It seems that on some of the records he was represented as having resigned, and, on others, as being *superseded*. The probability is, that neither was true, as the bounty was given when the explanation was given. These entries of resignations were unfounded in so many instances, as to be undeserving of the decided and preponderating weight claimed for them. (See appendix marked B 2.)

Lieutenant George Eskridge.—He is said (Report No. 1063, p. 29) to have resigned 14th September, 1778, and his commission to be on file. His own affidavit states that he entered the service in the summer of 1775; and, after being in service a considerable time, he was appointed an ensign, and subsequently a *lieutenant*. At the reduction of the army in September, 1778, (when he, no doubt, tendered his resignation,) he says *he was sent home to recruit;* and, fortunately for him, there is the most positive and conclusive evidence that he did actually enlist *John George*, on the *24th December*, 1778, to serve three years in the continental line, under said George Eskridge.—(See appendix, marked B 3.)

Here, then, is conclusive evidence that George Eskridge was in actual service three months and ten days *after* the alleged resignation. The fact cannot be doubted; for here is the certificate of the magistrate given on the *24th December*, 1778. The only mode of reconciling the two records, is, to suppose the resignation was not accepted, but Eskridge was permitted to go home to recruit. But, as he drew no pay after he left the army, his depreciation account would be settled, of course, to that time.

This certificate also shows what little weight is to be given to the opinion of the author, that the settlement of the depreciation accounts should be considered evidence of resignation. The settlement, in this case, shows that the account for depreciation of pay closed on the 14th September, 1778; while we have the most conclusive evidence that Lieutenant Eskridge was actually recruiting men three months and ten days after, to serve under him for three years. As, however, his resignation had been tendered, and he was permitted, without its being accepted, to return home to recruit, his pay was no longer received, and of course there was no depreciation of that pay to be settled. The receipt of depreciation is proof only of the fact that bad money *had been received* during that time by the officer, from the paymaster, or other accounting officer of the Virginia lines. If an officer received nothing during the period of depreciation, of course there would be no depreciation to be settled. If he was paid and settled with in any of the other States, as was frequently the case, from and after a particular period, no depreciation in the *Virginia* settlement would appear after that time. Hundreds of cases may

have occurred where an officer served till after December, 1781, and yet his settlement of the depreciation account would cover a very short period. The late commissioner, John H. Smith, formally stated this fact in several of his reports. So that the close of an officer's depreciation account is not *prima facie* evidence of determination of service. The Executive of Virginia has always been aware of this fact; and, with the books of depreciation settlements before it, has given the due and proper weight to those evidences. It would be an endless task, almost, to show the instances of the allowance of land bounty to officers whose depreciation accounts were shown by other and stronger record evidence not to have covered the whole time of service. If possible, we will obtain some satisfactory evidence elucidating this point, and insert the same in the appendix.

Lieutenant Joseph Holliday.—This claim, the committee observe, was allowed by Governor Tazewell, of Virginia, on the following evidence of service: "By an account of settlements with continental officers, in the Third Auditor's office, it appears that Lieutenant Joseph Holliday, continental line, was paid his depreciation of pay from the 1st of January, 1777, to the 23d of July following." Also, the affidavit, on oath, of John Stears, a pensioner of the United States, and certified to be entitled to credit. He states that in January, 1776, he enlisted in the company of Captain Oliver Towles, under Lieutenant Joseph Holliday; that, to the personal knowledge of affiant, the said Lieutenant Joseph Holliday continued in the service till the fall of the year 1781, when, in consequence of sickness, he obtained a furlough, at the siege of York; that affiant was at York, under the command of Lieutenant Holliday, when he obtained a furlough. The affidavit, of which the foregoing is the substance, was sworn to and subscribed "John Stears."—(See appendix, marked A No. 2, for the testimony.) That it was *strong*, taken in connexion with the testimony furnished by the books of the privy council, no one will doubt, when informed that the allowance was made during the administration of Governor Tazewell, who was proverbial for his acute, vigilant, laborious, and severe judgments on all these claims. The interests of the Government, in all such matters, might safely be trusted to him—"as Cato wise, as Aristides just."

The claim of *Lieutenant Daniel Beddinger* is another of the 64 asserted by Mr. Hall to be unfounded and bad.

The committee find this claim was allowed by the Virginia Executive, on the certificate of Major Samuel Tinsley, who certifies "that Daniel Beddinger, a lieutenant in the late Virginia line, on continental establishment, entered the service of the United States either in July or August, 1776; and that he continued in actual service till the dismission of the army in South Carolina, in the year 1783." Signed, "Samuel Tinsley, late a major in the Virginia line, and in command in the regiment in which Lieutenant Beddinger served in South Carolina." This certificate is dated 8th of November, 1809.

Here is positive evidence, of the highest character, that Daniel Beddinger entered the service in July or August, 1776, and served (as admitted) to the end of the war, 3d November, 1783. But, because the *commission* was dated 14th February, 1781, the author inferred that he could not have been in service before that time; and peremptorily decides the heirs had no claim to an allowance for services over six years. From the

last of August, 1776, to 3d November, 1783, was 7 years 2 months and 3 days.

The claim of *Captain Peter Bernard* was allowed on the following evidence of service: It appeared by the army accounts in the auditor's office, that Peter Bernard received the depreciation of his pay from 1st of January, 1777, to 1st September, 1779. It further appeared, by reference to the journal of the Executive, that Peter Bernard was a captain on the 10th day of August, 1776—making a service of more than three years, which authorized the allowance. This is another striking case of the harshest and most cruel injustice to the heirs of Captain Bernard.—(See Report No. 1063, p. 25.) The author admits he received depreciation ending 1st September, 1779; yet he avers that Captain B. resigned 24th August, 1779.

Let it be even so: how does the author come to the conclusion that Captain B. did not serve three years? Here is the record of his commission, granted to him *as captain*, 10th August, 1776—three years and fourteen days before the alleged resignation!!! But, because the receipt of *depreciation* for three years was not shown, the author *infers* that he was not three years in service; and therefore states it as an *ascertained fact*. He has shown elsewhere that he was not ignorant of the fact that no depreciation was allowed prior to 1st January, 1777; and that it was not, therefore, *possible* to show the receipt of three years' depreciation prior to 1st September, 1779, even although the officer may have been more than four years in service.

Besides the perfect and complete *record* evidence of more than three years' service, strong oral testimony was filed in the case.

The cases of *Surgeons David Gould and William Carter, and Surgeon's Mates William Ramsay and William Rumney.*—Upon reference to the evidence, no one can doubt the fact, that these officers served *more than three years;* and the only question in the cases, in regard to their allowances from Virginia, is, whether *hospital* surgeons were entitled to land bounty. The *author*, in Report 1063, page 29, says: "that promise was made to *regimental* surgeons only—(10 Hen. 141.)" The *law* states, "surgeon or surgeon's mate, to any regiment or *brigade* of officers and soldiers," &c. The testimony produced to the Executive of Virginia satisfied it, that if *hospital* surgeons were not included in the word "brigade," that word became a dead letter. But on this point nothing now will be added to what is already stated, on page 124.

Surgeon Shubael Pratt.—The author (page 34 of same report) admits his receipt of depreciation from 12th March, 1778, to 12th June, 1779; he adds: "If he had performed other service, he would doubtless have applied for, and received pay for it; of course, he had no shadow of claim to bounty land." The proof in the case is perfectly satisfactory that he was surgeon to the 9th regiment in January, 1776, and marched with the regiment to the north, and continued with it till its capture at the battle of Germantown. He remained during the winter with the army, returned to Virginia in the spring, and continued to act as the surgeon to the recruits on the eastern shore. The records prove the residue of his service, about three years and six months. Yet the author concludes, "of course he had no shadow of claim to land bounty."

Captain Thomas H. Luckett.—Notwithstanding the severe criticism of the author, (see page 31 same report,) it will be perceived the *services* of

Captain L. are admitted. Whether Captain Luckett was a Virginian or not, his receiving his commutation from the United States, and his pay from Maryland as a Maryland officer, did not alter the case. Many instances can be produced of similar payments in *one* State to the officers of *other* States, and the commutation payments were often made in the same way. The real question in the case was, whether he was a *Virginian* who had served in this continental regiment. The affidavit of Edward Fitzgerald, a gentleman of the highest respectability, an authentic copy of which will be procured, states: "That I was well acquainted with Major Thomas H. Luckett about the year 1781: that said Luckett *returned* into the county of Loudon aforesaid, *from his imprisonment*," &c. &c., "and afterwards knew him well up to the time of his death, about the year 1786: during which time, from 1781 to 1786, he resided in Loudon county. I was informed, and believe, that he was an officer in the revolutionary service." This, and other evidence, satisfied the Executive that Captain Luckett was a Virginian, and consequently entitled to Virginia land bounty.

The claim was allowed to a citizen of Ohio, and was presented by a distinguished member of the Virginia Legislature, without his having, or any other Virginian's having, the remotest interest in the case, directly or indirectly, as we are credibly informed. The claim was allowed without any conceivable motive of interest or bias of any kind; but simply because the Governor of Virginia, acting in a judicial capacity, thought the claim legal and proper. (See appendix, B 6.)

Lieutenant Joseph Holt is said to have resigned 1st April, 1778, having been appointed lieutenant 12th January, 1777, and "served about one year and three months." The proof in the case was, that he entered the service in *January*, 1776—another instance of inaccuracy, in the reports under review, in estimating the commencement of *service* with the beginning of the *depreciation* account. Many witnesses testify that Lieutenant Holt returned to the south *without resigning*, and was a staff officer in the commissary department as late as 1781. A copy was filed of an order from General Washington, dated 18th June, 1778, directing him and others to hold themselves in readiness to proceed to Virginia to collect and forward the draughts to camp. This order bears date two months and eighteen days *after* the alleged resignation.

Colonel William Davis.—The author of the Report 1063, page 29, admits Colonel Davis *served to the end of the war*, and received 7,777⅛ acres in 1784, for seven years' service. He adds, "November 19, 1839, *his heirs discovered that he did not understand the extent of his claim*, and obtained 1,466 acres for a further service of one year and one month."

The impropriety of this blind denunciation of claims, merely because the author did not understand their merits, and found it more convenient to denounce upon suspicion, than to investigate them, will appear very manifest by reference to Colonel Davis's own statement in December, 1782. It was as follows:

"WAR OFFICE, *December*, 1782.

"I do certify upon honor, that *I am a colonel* in the Virginia continental line, and have been an officer in it ever since August, 1775, and that I am entitled to the bounty of land allowed therefor by law.

"WILLIAM DAVIS."

As but little over seven years had expired at the *date* of this certificate, the *allowance* was made for *seven years;* but as Colonel Davis remained in service to the end of the war, (November 3, 1783.) he became entitled for that additional period, and appears, like a great many other officers of the highest distinction, to have neglected to draw their warrants for the excess over the first order of allowance.

Capt. Lieut. Clement Skerrett.—The narrative on page 35 of Report 1063 we are satisfied is historically inaccurate, and that the claim on behalf of Captain Skerrett was not on the ground that he was *originally* a Virginia officer. He was admitted to have been a *Maryland* officer; but had been (together with several other Maryland officers) *transferred* to Harrison's artillery *prior* to the resolution of Congress of October 3, 1780, which declared "that the regiments of cavalry, *artillery*, and artificers, as *they now stand*, be considered as belonging to the States, respectively, *to which* they are, or may be, assigned; which States shall complete them to the full complement, supply them with necessaries, and, *in every respect*, treat them *as if originally raised therein*," *&c.*

The facts were proved beyond all question, that these Maryland officers had been *transferred* to Harrison's Virginia regiment. There appears not to have been the slightest foundation for the *insinuation* that they were a part of that regiment when it was first raised.

As Virginia became entitled to, and had credit for these officers, who were in *every respect* to be considered as if originally belonging to her line, they claimed the land bounty from her; and their having previously served in the Maryland line was thought to constitute no greater bar than if these officers had served, prior to such transfer, in a foreign army.

Skerrett's claim was presented to the Governor and Council, and was *allowed.* Shortly thereafter, a claim of another of the Maryland officers, resting on the same point, was *rejected.* No sooner was this made known, than the certificate of allowance in Skerrett's case was voluntarily returned to the Executive, to be cancelled if it thought proper, as the applicant professed not to desire to have the warrant if it was not fairly due. The certificate accordingly was cancelled. But, at a subsequent period, the whole subject was reconsidered; and, after mature deliberation, the point was finally settled in favor of the officers, and they obtained their warrants.

This brief sketch, which can be verified by the executive records, will show what slight authority the author had for his denunciation of this claim.

Lieut. Joseph Rodgers.—Report 1063, page 34, says: "He must have been a man of *straw;* no such person appears, at any time, to have been an officer of the Virginia line."

If the author had referred to the journals of the House of Delegates of June 23, 1780, he would have seen that this officer (a lieutenant of the Virginia line) *was a prisoner of war* on Long Island, and that the committee reported it as their opinion that the Governor should send to him (as to each of the other officers named) 10,000 pounds of tobacco. By reference to the evidence on which the claim was allowed, the author would have seen the affidavit of William Stark, a brother officer, in which he says he was *well acquainted* in July, 1776, with Ensign or Lieutenant Joseph Rodgers, of the 4th Virginia regiment, he thinks; but he is *certain* they went to the north together, and were in the battle of Brandywine on the 11th September, 1777, where the deponent was wounded, and in March following *resigned.* His belief is, that Rodgers was a prisoner, and died in service. Another wit-

ness (J. E. Garrison) states that Lieutenant Joseph Rodgers entered the service early in the war, *was taken prisoner, and died in the service;* his brother John was deponent's intimate friend. Yet, because the author could not find the name of Joseph Rodgers on his "rolls," he says: "*he must have been a man of straw!*" Comment is unnecessary.

Captain John Cordell. (Report 1053, page 27.) About two years' service, prior to 1st January, 1779, is *admitted* as being shown by the *records.* General Morgan in 1792 gave his certificate that John Cordell was a chaplain to the regiment 1st of January, 1777; was taken *prisoner* at Brandywine, and kept in captivity till the beginning of 1779; and that he then became a *supernumerary* officer: as such, the bounty was allowed to his heirs. Chief Justice Marshall, on 28th of May, 1834, certified that the signature of General Morgan was genuine, and that Cordell was, to his knowledge, the chaplain of the 11th regiment.

Lieutenant Peter Foster.—Report 436, pages 55, 56, seems to deny that he was an officer at any period of the war, and concludes, "The service of Foster was shown by parol evidence of the *weakest character;* and on such evidence he was, on the 22d of May, 1832, allowed a land bounty of 2,666 acres for a service to the end of the war."

The value of the author's opinion as to the weight of any testimony admitted by the authorities of Virginia, may be better estimated by a reference to the vouchers in this case, upon which the Virginia land bounty was granted.

Peter Foster exhibited the certificate of his having received his land bounty *from the United States* as an officer of the continental line; also the certificate of Louis McLane, Secretary of the Treasury, that Peter Foster had been allowed the pension under the act of May 15, 1828, as an officer who had served to the end of the war, or became supernumerary. Besides these evidences from the records at Washington, he produced the affidavit (sworn to on the 15th of June, 1790) of William White, an officer of the Revolution, that he and Peter Foster had joined Colonel George Gibson's regiment in 1776 for three years, at the expiration of which time Peter Foster had been promoted, and was a *first lieutenant;* also the affidavit of Captain Thomas Richardson, dated 10th July, 1793, stating "that Peter Foster was a *supernumerary first lieutenant* of Colonel George Gibson's regiment on continental establishment, and that he joined Colonel John Pleasants's regiment, (to which I belonged,) in the winter of 1780, and continued as lieutenant and adjutant until the British troops capitulated at Yorktown;" also the affidavit of John Nicholas, (another officer,) that Peter Foster was an officer in Colonel Gibson's regiment, and continued to hold his commission to the end of the war, and that Churchill Gibbs had made affidavit that he and Foster had been appointed lieutenants *on the same day;* also the affidavit of Ansalem Bailey was filed, stating that Peter Foster was a sergeant in Captain Meriwether's company, and was appointed first lieutenant in 1779, was sent to the south, and, to his own knowledge, continued in service to the end of the war.

Besides the above, there was filed the affidavit of William Cooper, dated 16th of May, 1789, stating that Peter Foster's trunk of papers, including his commission, was burnt in 1783, with his father's house. Such was the evidence (though not of the "weakest character") on which Virginia granted the land. If she had been satisfied with the certificates from the War and Treasury Departments, it is not perceived that she would have

been censurable for paying that respect to them; but she has, in addition, the evidence of five or six most respectable witnesses, most of whom gave their affidavits shortly after the war, to establish the claim.

Whether Colonel Gibson's 1st Virginia State regiment became a *continental* regiment under the act of Assembly of October, 1777, was a grave question, until 12th January, 1830, when the War Department decided it in the affirmative.—(See Report 191, page 66, 22d Cong., 1st session.) From that time the question was considered settled by all the departments. The United States land bounty was awarded to all the officers; the survivors were placed on the pension roll under the act of 15th of May, 1828, (which extended only to officers of the *continental* line,) and Congress passed laws allowing commutation to them—(See report of committee of 19th of March, 1830, in William Vawter's case; and of 4th January, 1832, in Peter Foster's case.) The objections on page 42 of Report 436, appear by no means unanswerable. That it was called the 1*st State regiment*, resulted from its having been raised as such, and no change in the name or number of the regiment was made in the law which transferred it to the continental line. The officers would have retained their commissions, even if the law had said, in so many words, "this shall in all respects be considered a continental regiment." These were not included in the arrangements of the continental line, because confusion and inextricable difficulty in questions of rank would have arisen: whereas they were avoided by the course adopted. The same course would no doubt have been pursued if the transfer had been as full and perfect as any one would have asked. When the men's term of enlistment had expired, the reduction was necessary; and having been omitted in the other organization, it must necessarily have been made in its original name and designation of 1st State regiment. The settlements of depreciation, and payment of land bounty as *State* officers, were the results of the arrangements; the pay and bounty being the same, it was a matter of no consequence to which line they were added in the books of account; and, at all events, these books enrolling this as a *State* regiment, are entitled to no weight in the author's estimation, as he would allow no such weight to the like enrolling of the regiment of guards. It does not appear when these officers first claimed to have been of the continental line; the author's saying they made the claim for the *first* time in 1830, only shows that he *thought so*.

The allegation that the transfer was only for a temporary purpose, does not appear well sustained. The act directs that the first Virginia battalion, under Colonel Gibson, "be continued in the said (continental) service, instead of the 9th Virginia regiment," &c., "until the officers and men of said regiment shall be exchanged, or *the time* of the *service* of the *men* in said first battalion *shall be expired*."

It is not perceived how it could well continue *longer*. The State had no power, certainly, to bind the men beyond the terms of enlistment. The continuance till the officers and men shall be *exchanged*, is about as definite, and no more so, as "until the end of the war." It *might* be for a *shorter* time, but of that there was no certainty.

The transfer was *instead* of the ninth regiment. The loss of the ninth made it incumbent on Virginia, in supplying *her quota*, to raise another regiment. If it had been raised, it would have been a *continental* regiment; but the first State regiment was tendered and accepted *instead* of the ninth.

But the author thinks the passage of the act of July 5, 1832, was a repudiation of the construction that Col. George Gibson's was a *continental* regiment.

By reference to the report of the committee, (see Report 191, 22d Congress 1st session, pages 4 and 66,) it will be seen, the passage of this act was urged *upon the ground* that Gibson's was actually, and by law, a *continental* regiment. The law was enacted, as recommended by the committee. How, then, can it be pretended that this very enactment was a repudiation of the view that had been taken of the character of that regiment?

That the regiment should be viewed as somewhat peculiar and anomalous, may be attributed to the fact, that, after nearly 50 years controversy, the courts had decided these officers were entitled to their half pay; and the liability being thus *settled and fixed* against Virginia, the United States Government felt bound to step in, and relieve her *from the debt thus established*. Hence the passage of the act of July 5, 1832, which directed the payments to be made according to the principles settled by the courts.

But the United States Government had also been convinced this ought to be viewed as a *continental* regiment; and it was, therefore, bound to pay the commutation whenever the officers asked it. So that the effect of the decision of the courts, and the conviction on the part of the United States Government of the just claim of these officers to be considered continental officers, left to *them* the option to demand either the half pay or the commutation, at their pleasure.

And thus, there is no incongruity in one portion of the officers demanding and getting half pay, and in the others demanding and receiving the commutation.

Captain Richard Pendleton.—Report 1063, page 33, says: "A considerable portion of the cases, it has been seen, are built upon some short term of service. *This* is one of those *wholly manufactured*."

Two witnesses, who knew him personally in the army, and served with him, say *he died in service*. These witnesses are Alexander C. Shackleford and Henry Buchanan, both of whom are vouched as highly respectable, and worthy of the most entire reliance on their accuracy and credibility; the latter has been represented as remarkable for his recollection of revolutionary incidents. He says "he and Captain Pendleton were both in Col. Bland's regiment of cavalry; that Captain P. was taken suddenly ill at the dinner table, in Halifax, N. C., *and died in a few hours*; he was buried with the honors of war. Witness was present at the scenes. Captain Pendleton commanded a company in the regiment. Witness was *well acquainted* with him."

This minute detail, given by men of character and respectability, cannot be untrue. Yet this case is said to be "wholly manufactured!" because, too, his name no more appears "on the rolls" than did Captain *Dolnicky Arundel's*.

Lieut. John Wilson.—Report 1063, page 36, shows than *an* officer of the name was killed at *Eutaw*; but if the author had taken the trouble to ascertain the facts, he would have found *this* to have been *totally a different person*, and the services established to the entire satisfaction of the Executive. An authenticated copy of the vouchers will be obtained, but it may not be received in time to be filed with this report.

Lieut. Edward Wade.—Report 1063, page 36, states, that "*if* he died *in*

service, (of which there is *parol*, but not record proof,) his heirs would be entitled to the original bounty of 2,666⅔ acres."

If the author had examined the Washington Papers with an *unprejudiced* eye, he would have found the *record proof* that this officer died on the 26*th April*, 1776—the month ensuing his appointment as *lieutenant*.

How long Edward Wade had been *in service* before that appointment, does not appear among those papers. But it should be recollected, the war began in Virginia in the summer of 1775; and in the autumn of that year the more ardent in the cause took up arms *in the ranks*, if commissions were not to be had; and when, in 1776, new regiments were formed, the officers previously in service were generally promoted, and the new commissions given to those who had evinced their military ardor by service in the ranks; and thus it happened that the services generally commenced several months before the *date* of their *commissions*. This circumstance seems never to have occurred to the author of these reports. Whenever he had not full evidence of the commencement of an officer's services, he took the *date* of his *commission;* and, after deciding that his services *commenced* then, made his commentaries accordingly.

To this is to be ascribed his erroneous representation of the services of *Lieut. Charles Yarbrough*, in Report 1063, page 36; from which it would appear his services commenced October 16, 1780, because his appointment as lieutenant of cavalry bore that date. If he had consulted the vouchers on which the claim was allowed, and the gazettes of the early period of the war—which very often supply the omissions in the defective and imperfect military records—he would have seen that Charles Yarbrough was an officer in the infantry long before his appointment in the cavalry.

Lieut. Richard Muse.—Report 1063, page 33, admits he was appointed *lieutenant* of 15th regiment on December 22, 1776, but says he resigned May 14, 1779.

The proof filed with the application shows that a large sum of money was paid him, to recruit with, more than *three* months after this alleged resignation. It also shows he was in service from the latter part of 1775, and was in the battle at the Great Bridge, January, 1776—more than three years and four months prior to the 14th May, 1779. Yet, because his commission as *lieutenant of the 15th regiment* bore date 22d *December*, 1776, the author takes it for granted he could not have been in service before that time.

Capt. Hubard Smallwood.—After serving a year and seven months, is said to have resigned.—(See page 35, same report.)

The proof filed with the petition for the land bounty, was apparently conclusive that Capt. S. died in service—being engaged in *recruiting*, and superintending the recruiting service.

If he resigned, as alleged, the claim was not a good one; but there was nothing, as we are informed, to create any such suspicion in the mind of the Executive of Virginia.

Capt. Thomas Waring.—Page 36, same report, charges him with being *another "man of straw."*

Fortunately for his representatives, they preserved and filed his original commission on parchment, signed John Hancock, dated September 22, 1776, as ensign of the 5th Virginia battalion.

Some of his pay accounts, as late as November, 1777, are also filed among

the papers; also, the affidavit of John Clarke that he became a captain in the service. Witness saw him in service in the fall of 1779.

Capt. Jacob Winfree—another "man of straw"—was killed at the battle of Guilford. The proof is conclusive that he was in the regular service and entered it in 1776. His services were mostly at the south.

Your committee have thus reviewed nearly every case of the 64 commented upon by the author of these reports; and, so far from concurring with him in the opinion that not one of them was properly allowed, are impressed with the remarkable fact, that (with one or two exceptions) *all* of them should be so well sustained. We say *remarkable*, because it is not probable that any tribunal whatever could be free from error or imposition in many cases, where such a number had to be adjudicated, and under all the circumstances of these claims.

We have had the advantages of the various sources of information referred to by the author, and the vouchers of the executive department of Virginia, abstracts of which have been furnished us. Should complete copies be desired, we are told they can be obtained; although we are aware of the injustice to the Executive of Virginia in exhibiting merely copies of the papers filed by the claimants, when in fact these papers may have contributed but a very small portion of the evidence which influenced the decision.

The executive journals of the privy council during the Revolution, with other sources of information within reach of the Executive when the claims were under adjudication, doubtless furnished much important, if not conclusive, testimony in many cases; which, in conjunction with the papers filed by the claimants, fully established their claims. So, therefore, were we to lay before Congress all the evidence produced by the claimants, yet we might present but an imperfect display of all the facts controling the decision.

This remark might be illustrated by reference to another case—that of *Capt. Francis Conway*, denounced in Report 1063, page 27, where it is said to be "altogether impossible he could have performed a service of three years."

He was proved to have been in the minute service in September, 1775, and for more than three years thereafter. A reference to the executive journal of *September* 10, 1776, showed him to have been commissioned *on that day* in the regular service.

This, of course, was a most important fact in the chain of title.

We will not occupy more of the time of the House by extending this report to other cases referred to in the reports already so frequently quoted, and the Report 485, 27th Congress, 2d session; although we have no reason to doubt an equally favorable result, if the investigation were undertaken. We are strengthened in this persuasion by the fact, that the author appears to have been not more fortunate in getting the heads of the departments of this Government to concur in his views, than those of Virginia.

But a view has been taken of the supposed injustice done to the soldiers of the Virginia line, by a too limited construction of the land bounty laws; and the remedy is only within the power of Congress. Should it be convinced that this injustice was done the soldiers, no doubt is entertained of its willingness to make such an appropriation of the public land received from Virginia as will remedy the evil. Whether any reservation was made in the deed of cession, is immaterial. Virginia owned the land, and, in granting the bounties, pledged it to the officers and soldiers. Subsequently

she ceded it to the United States—whether with or without consideration, is also immaterial, as it was accepted with the known incumbrances recorded in her statutes. The question now submitted is, whether the bounties of 100 and 200 acres, previously promised to the soldiers, were not enlarged to 300 acres each, by the act of May session, 1782, 10 Hening, p. 84.

From an early period, a promise of 100 acres each had been made to all soldiers who enlisted *for three years*, and served out their time; and of 200 acres to all who should enlist *for the war*, and serve to the end thereof.

At the October session, 1780, an act was passed to raise further recruits for the war, and 300 *acres* were given to all soldiers who *had enlisted for the war*, or should so enlist by the 1st of April, 1781, and serve out their terms.

In many respects this was a very extraordinary act; and, by reference to the journals of the House of Delegates, it appears to have been debated at great length. It was reported to the House on the 27th of November, 1780, read a second time on the 28th, and referred to the Committee of the Whole, where it was considered each day till the 13th of December, when it was reported to the House with amendments; was there amended and re committed on the 15th, was ordered to be engrossed on the 16th, was committed again on the 18th, and, undergoing various alterations, was again ordered to be engrossed on the 20th, and passed the House on the 21st—was amended in the Senate. On the 28th of December some of the amendments were concurred in, others disagreed to—the Senate receded—and, finally, the bill was signed on the 1st day of January, 1781. No part of this act can, therefore, be supposed to have escaped the fullest consideration; and yet it appears *only one soldier* of the Revolution ever obtained the 300 acres, so clearly and unequivocally promised to *all who had enlisted*, or should enlist before the 1st of April, 1781. The note of Mr. Hening, vol. 10, p. 331, explains in part the causes of the omission. It is worthy of note, as he says, that at this same session the law was passed increasing the officers' bounty *one-third*, in addition to former allowances. By reference to the journals of the House of Delegates, page 79, of that session, it will be seen *both acts were signed* on the *same* day, January 1, 1781: thus showing, beyond all question, that the addition to the soldiers' land bounty was deliberately made, and was designed to place them on equally favorable ground with the officers. But by this act no increase of bounty was made to the soldier who had enlisted, or should enlist, for three years. Neither the officer nor the soldier, to whom these promises were made, would be entitled to anything unless he served to the end of the war. The next important land bounty act is that of the May session, 1782 (11 Hening, p. 84) 9th section:

"*And be it further enacted*, That any officer or soldier who hath not been cashiered or superseded, and who hath served the term of three years successively, shall have an absolute and unconditional title to his respective apportionment of the land appropriated as aforesaid. And for every year which every officer or soldier may have continued, or shall hereafter continue, in service beyond the term of six years, to be computed from the time he last went into service, he shall be entitled to one sixth part, in addition to the quantity of the land apportioned to his rank respectively."

It consists of two distinct branches—the first, giving the land bounty to all who had served three years; the second, giving the additional

bounty to all who should serve over six years. The first extended the bounty to those who were not entitled to any; the second enlarged the quantity to the veteran in the service, so as to preserve a distinction in his favor. In *practice*, the first has not been extended to the *soldier*. Many have received 100 acres each, but they were entitled to that under *prior* laws. The *officer*, under this clause, obtained the same bounty which had been by previous laws promised only for service to the end of the war; and the question now submitted is, whether the *soldier* is not entitled to the same bounty, viz: 300 acres? If *no* bounty had previously been promised to a soldier for three years' service, this law would have given him 300 acres, as it gave the captain 4,000, and the subaltern 2,666⅔. To a captain who should serve to the end of the war, 4,000 acres had been promised; and to the soldier, 300 acres. In this state of things, the act of 1782 is passed, and gives to the officer *and soldier* who had served *three* years, his respective apportionment of land. The construction universally given, so far as the *officer* was concerned, has been, that he should have the proportion which had before been promised to him if he had served to the end of the war. The words of the law are the same in regard to the *soldier* as to the *officer*, and he claims an equally enlarged interpretation. It seems, from the letter of the register of the land office of Virginia, that the practice has been to give 100 acres to those soldiers who had enlisted *for three years*, and 200 acres to those who had enlisted *for the war*. This construction not only overlooks the act of 1st of January, 1781, which gave the 300 acres, but completely *annuls* this most important clause of the 9th section of the act of 1782, so far as the soldier is concerned, who had enlisted for a term of three years, and served out his time. It annuls the clause to every possible intent, except to a single class of no great extent, (who, in practice, we are assured, have not been allowed, but whose admission to the right might *possibly* satisfy the *words* in the opinions of some persons,) viz: those who enlisted for shorter periods, and then re-enlisted, so as in the aggregate to make out a period of three years successively. This class may, in our opinion, justly claim, under this law, the land bounty, and could claim it under no other; but in the allowance, it is not perceived why the soldier who had served three, four, five, or six years, under as many enlistments, should not be granted the 300 acres which had been promised to those who should serve to the end of the war, as the captain who had served the like number of years, and then resigned, should be entitled to the 4,000 acres promised only in the event of service to the end of the war. It may be said the act of 1782, by extending the bounty to this small class not previously entitled, ought not to be construed to give them more than those obtained who drew the *least* bounty before. The answer is, the act intended to treat all the *soldiers* as it did the *officers*, and to give to *all* who served three years successively, and had been honorably discharged, or been permitted to resign, the same bounty which had previously been promised for service to the end of the war. But the practice of the Virginia Executive has completely annulled the first branch of the 9th section of the act of 1782, as no soldier has been allowed the land bounty who was not entitled to it under prior acts of the Legislature. So far from the Virginia Executive having made a wasteful disposition of the lands, it appears to have given a practical construction to this act, which has deprived the soldiers of certainly *not less than half a million of acres*, and probably a million.

If the soldiers were entitled to the 300 acres under the act which was

passed 1st January 1781, (about which no one now doubts,) all who drew 200 acres under enlistments for the war, prior to 1st April, 1781, are as certainly entitled to an additional 100 acres each. And if the view herein taken of the 9th section of the act of 1782 be correct, every soldier who had served three years successively was entitled to 200 acres more than he got. By reference to page 88 of Report 436 hereinbefore mentioned, it will be seen the number cannot be less than 5,000 who have heretofore received these smaller proportions, and are now entitled to the 100 and 200 acres. When we take into consideration the previous history of the legislation on the subject of these bounties; the progressive step, *pari passu*, that increased the bounties to the officers and soldiers; the absence of all motive in 1782 for extending the already vast disproportion between the bounties which then existed; the situation of the country at the time of passing this law; the approach of peace, and the general feeling of gratitude to the war-worn soldier: and, above all, the positive *terms* of the law, which always mention the *soldier* whenever the *officer* is named,—we are at a loss to conceive how this act ever should have been construed so much more favorably for the one than the other—how it should have been supposed that while the bounties to all others were so greatly increased, *not one acre* was added to *his*, who might have even completed his second term of three years' enlistment. There is nothing in any part of the law which forbids the idea that the same liberality was intended for the soldier as for the officer. The terms "to his *respective* apportionment of the land," &c., have, no doubt, been the cause of the discrimination in the subsequent allowance to the soldier for *three years*, and *for the war*. That term "*respective*" must have had reference to the distinction between the class of officers and that of soldiers. It may have been used as equivalent to "separate" or "individual." It could not have had relation to any defined, pre-existing *rights*, because there were no rights at all prior to this law in any of the officers, and many of the soldiers who were embraced in this clause of it. This act conferred the right, for the first time, upon them. If it was proper to preserve, under this clause of the act, any distinction between the *three years*, and *the war* soldiers, and to limit the soldier who left the service at the close of 1778 to his 100 acres, as being his respective apportionment,—ought not his captain, who resigned at the same time, after rendering like service, to have been limited to the *first* bounty apportioned to his rank—3,000, instead of 4,000 acres? Why should the 4,000 be more *his respective apportionment* under the act of 1782, than the 300 be the soldier's respective apportionment? On the same day the officer's bounty was raised to 4,000 acres, the soldier's was raised to 300. Then followed the act of 1782, which gave the officer (who may have *resigned* three years before) his respective apportionment of land, viz: 4,000 acres; and the soldier who (having completed his enlistment for three years) left the army with the officer, *his respective apportionment*, which, by the same rule, should be 300 acres. It is clear that, if no law had ever been enacted, giving land bounty for any other service than *for the war*, the 300 acres would have been awarded, under the act of 1782, for the three years' service of the soldier. Is it reasonable to suppose the Legislature, in 1782, meant to give the war bounty to the officer, although he may have served but three years, and did not intend to give the war bounty to the *soldier* for the like term of service? We are satisfied no such injurious and invidious discrimination was intended, as it certainly was not expressed. We are satisfied that

great injury has been done the soldier, and that it has proceeded from an over scrupulous apprehension of giving up too much—a desire to err on the safe side, where there was danger of error. We have dwelt longer on this point than we desired, because the rights of the soldiers were involved to the probable extent of a *million of acres*, which appear to be clearly due them; and because it shows how scrupulous have been the authorities of Virginia not to exceed the strict limits of the law, even when its enlarged spirit, and every feeling of philanthropy, invoked a generous and liberal interpretation.

In regard to the claims to land bounty of the officers of the navy, it has been shown that all of them are entitled to it, according to their *rank*. They were to receive the like proportion with officers in the land service of the *same rank*. If a captain in the navy *ranked* with a brigadier general, he would be entitled to 10,000 acres of land; and so with the other officers. The Virginia law was general, and extended to all officers of the navy, without specifying any of them. If a person was an *officer* in the navy, the bounty was given to him according to his relative rank. Chaplains, surgeons, and surgeons' mates, were provided for specially, as they held no rank—that is, a special provision was made for them in the land service; and the navy was subsequently placed, in all respects, on the same footing with the officers in the land service. What denomination of officers was meant by the Legislature, may be inferred from its specification of them in fixing their *pay*. It will there be seen, that all the *warrant* officers are as fully comprehended and recognised by the Legislature *as officers in the navy*, as the captains and lieutenants. (See 10 Hen., p. 381, last clause.) The warrant officers are enumerated; the pay of most of them exceeding, or equal to, the midshipmen's. Without wasting time to show that all warrant officers were "officers" of the navy, and entitled, as such, to the land bounty, the real question, and the only one worthy of notice, will now be examined, viz: What was the *relative rank* held by these warrant officers? The laws of Virginia are silent on the subject; nor does it appear that any competent authority in that State ever expressed an opinion during the Revolution. It is true, the navy board of Virginia, on 10th July, 1776, entered an order on its journal, fixing the relative rank between the army and navy; and this has sometimes been urged, gravely, as establishing that relative rank. But a moment's reflection must show that proceeding was entirely nugatory. Suppose a drum-head court martial, or any other court martial, or board of officers in the army, had made minutes of its proceedings, establishing the relative rank between the army and navy: would it have had the least force in settling this question of *rank* between the rival arms of the public defence?—a question of extreme delicacy, calculated, whenever approached, to arouse the jealousy and fastidious sensibility of military pride. No tribunal of either *one* was competent to settle such a question; it could only be done by a mixed commission, or by a controlling authority that was superior to both.

Apparently aware of the futility of such a one-sided proceeding, its apologist has endeavored to bolster it, by interpolating the words "with the approbation of the Executive." But no such authority is produced, or, as we are informed, can be produced; and the rights of the claimant are left, under the law, to be determined, as to the legislative intention, by evidence *aliunde*.

Fortunately for the warrant officers, Congress did, on the 13th Novem-

ber, 1776, (see Journals of Congress, vol. 1, p. 549,) adjust the relative rank between the army and navy; and the Legislature of Virginia must be presumed, in the absence of any expressed indication, to have had in its eye this adjustment of the question by Congress. Taking this as granted, we see the captain of a ship of 20 guns ranked as a lieutenant colonel; of 10 guns, as a major; a *lieutenant in the navy*, as a captain on land. The specification descends no lower; but it is obvious that the warrant officers must have ranked with the subalterns on land, or there would have been no rank in the navy below that of a captain on land: which would be absurd. To avoid such a conclusion, the only way is to give to the midshipmen and other *warrant* officers the rank of subalterns. That has been done by Virginia. Congress considered the warrant officers as *officers in the American navy*. They are expressly so styled, and the pay of each graduated according to the relative rank among themselves. Vessels under 10 guns were to be commanded by *lieutenants*: the pay of the officers of such vessels (mate, boatswain, gunner, and carpenter) is specified: and then the resolution proceeds: "The pay of the *other* officers and men, the same as in vessels of from 10 to 20 guns; captains of marines, $30 per month; lieutenants, $20; *non-commissioned officers* and soldiers, the same as in the land service." Here it is evident, 1st, that warrant officers are designated as *officers* of the American navy; 2d, that there is an expressed distinction between them and the non-commissioned officers; and, 3d, that the warrant officer is the only correlative in rank to the subaltern on land.

Besides this high authority which the Legislature of Virginia may fairly be presumed to have had in view at the time of enacting her law in 1779, the opinions of distinguished officers of the army and navy, and of eminent jurists, were obtained, as we are informed, after the passage of the act of Congress of 30th May, 1830, which sustained the *practice* which had existed since the land warrants were first issued, (with a few exceptions,) of allowing to warrant officers the proportion of land due to subalterns in the land service.

The proposition submitted by the resolutions for inquiry, is, whether it is expedient for Congress to pass an act to revive the act which authorized the issue of scrip, in exchange for unsatisfied military land bounty warrants issued under the authority of the United States, or under the authority of the State of Virginia, in satisfaction of claims to land due by that State to her officers, soldiers, and seamen, who served in her continental and State establishment in the war of the Revolution, in pursuance of the several acts of the Virginia Assembly allowing land, in consideration of the military service prescribed in said acts. This, the committee understand, is the question which they are instructed to consider and report on.

Having felt it to be our duty to examine, as extensively as our limited time would permit, the reports formerly made on this subject, and being constrained to dissent from their conclusions, because we deemed their positions too frequently suppositious, and generally not warranted by facts or the land bounty laws of Virginia, we have, therefore, been induced to lay our views on this subject before the House of Representatives. This course was the more incumbent on us, on account of the erroneous impressions which previous reports have produced. Indeed, it would have been useless to respond favorably to the inquiries contained in the resolutions referred to us, unless that response was accompanied with an answer to objections previously urged against satisfying the prayers of the claimants.

Such were the considerations prompting the review of reports Nos. 436 and 1063. If, in the course of our argument, undue severity of criticism should occasionally have escaped our observation, we hope it will be ascribed, as it should be, alone to our desire to do justice to the too long neglected claimants, and to assure Virginia that we respect her Executive, and duly appreciate the noble sacrifices she has made on the altar of our common country. Should we, however, in repelling unfounded imputations, have been led by the course of others into investigations not exactly pertinent, we hope proper allowances will be made; for we apprehended that to pretermit some of those irrelevant points might be construed into an inability on our part to refute them.

It is proper to state, that we have entered upon the discharge of the duty assigned us, not with the view to inculpate any one, still less to make an ex-parte exhibition of the claims, so as to impose on the good sense of the House of Representatives; nor, on the other hand, have we endeavored to screen this Government from complying with whatever justice, sanctioned by its own acts, may demand. We have therefore examined the subject, guided alone by a desire to do justice to all parties, believing that an impartial presentation of all the leading points in the case would best enable this Government to act in a manner alike corresponding with the merit of the claims, and becoming to its own dignity and character.

In presenting this review of the adverse reports already alluded to, we regret that our limited time precluded us from that methodical and perspicuous arrangement of our views which, under more favorable circumstances, we should have been able to effect. But, above all, we deplore the necessity we were under of hastening in our report, to the exclusion of much important matter, which time alone would have enabled us to collate and insert. We are sensibly aware of the disadvantages the claimants will labor under on that account, especially as the adverse reports were adroitly drawn up, and evidently consumed a great length of time in the preparation of them. However, we rely greatly upon the *merit* of the claims, and feel every confidence that the two Houses of Congress will perfect the work which they have thus far so patriotically sanctioned, and thus place it beyond the power of history to say that any just portion of our revolutionary debts were repudiated by the Representatives of the American people.

After the best examination we have been able to give the subject referred to us, we feel warranted in recommending legislation in favor of the claimants. A great variety of difficulties have been interposed by those who have heretofore examined and reported on this subject, in the 26th as well as in the 27th Congress; yet we indulge the hope that the explanations and reasons set forth in this report will satisfactorily remove them. Shall it be our good fortune to have succeeded in attaining that important end, we flatter ourselves that Congress will *not* discriminate between those *now* presenting their claims for liquidation, and those who were so fortunate as to have been paid by former acts granting scrip to satisfy outstanding revolutionary land bounty warrants. If it were wise and proper to pay those who presented their claims in 1830, we can see no good reason why those *now*, presenting *similar* claims, should not meet with *equal* favor and justice. But few persons, if any, will question the correctness of the policy heretofore pursued by this Government, in satisfying this description of revolutionary debts; nor can we believe that any unprejudiced examination could induce

a just conviction that the land bounty warrants now outstanding are *less* meritorious than those which have been provided for by this Government. Indeed, the severe ordeal through which they have passed, without having their validity impaired, in our opinion, commends them the more eminently to our favorable consideration. In accordance with the foregoing views, we respectfully ask leave to report a bill.

APPENDIX.

No. 1.

DIGEST OF LAWS ON THE SUBJECT OF LAND BOUNTIES,

COMPILED FROM HENING'S STATUTES AT LARGE.

The resolutions of Congress, under the Confederation, and the laws of Virginia, on the subject of land bounties, being dispersed through a number of volumes, some of which are of difficult access, it has been deemed important to bring into one view all the resolutions and laws which bear upon the subject.

Congress, by their resolutions of the 16th and 18th of September, 1776, and the 12th of August and 22d of September, 1780, stipulated grants of land to the officers and soldiers of the continental army, and to certain officers in the hospital department. At that period Congress had no land at their disposal; and would have been compelled to purchase lands to make good their contracts, had it not been for the liberality of the States. For the same resolution which promises the bounty, expressly declares that *such lands are to be provided by the United States; and whatever expense shall be necessary to procure such lands, shall be paid and borne by the States, in the same proportion as the other expenses of the war.*

UNITED STATES LAND BOUNTY.

The resolutions of Congress of the 16th of September, 1776, above referred to, provide for the raising of eighty-eight battalions to serve for the war. In addition to a money bounty of twenty dollars to each non-commissioned officer and private soldier, it was resolved, "that Congress make provision for granting lands, in the following proportions, to the officers and soldiers who shall engage in the service, and continue therein to the close of the war, or until discharged by Congress, and to the representatives of such officers and soldiers as shall be slain by the enemy: such lands to be provided by the United States; and whatever expense shall be necessary to procure such land, the said expense shall be paid and borne by the States, in the same proportion as the other expenses of the war, viz:

To a colonel	500	acres.
To a lieutenant colonel	450	do.
To a major	400	do.
To a captain	300	do.
To a lieutenant	200	do.
To an ensign	150	do.
Each non-commissioned officer and soldier	100	do."

On the 18th of September, 1776, the following resolutions were adopted:

"That the bounty and grants of land offered by Congress, by a resolution of the 16th instant, as an encouragement to the officers and soldiers to engage to serve in the army of the United States during the war, shall extend to all who are, or shall be, enlisted for that term; the bounty of ten dollars, which any of the soldiers have received from the continent, on account of a former enlistment, to be reckoned in part payment of the twenty dollars offered by the said resolution.

"That no officer in the continental army be allowed to hold more than one commission, or to receive pay but in one capacity, at the same time."

The resolution of the 12th of August, 1780, referred to, is in the words following:

"That the provision for granting lands, by the resolution of September 16, 1776, be, and is hereby, extended to the general officers, in the following proportion:

To a major general - - - - -	1,100 acres.
To a brigadier general - - - -	850 do."

With respect to the resolution of the 22d of September, 1780, the following appears on the journals of Congress:

"Congress resumed the consideration of the report of the committee on the medical department; and on the consideration of the following paragraph, viz:

"That the several officers, whose pay is established as above, except the clerks and stewards, shall, at the end of the war, be entitled to a certain provision of land, in the proportion following, to wit:

"The director to have the same quantity as a brigadier general; chief physicians and purveyor, the same as a colonel; physicians and surgeons, and apothecary, the same as a lieutenant colonel; regimental surgeons and assistants to the purveyor and apothecary, the same as a major; hospital and regimental surgeons' mates, the same as a captain."

STATE LAND BOUNTY.

Virginia, holding immense tracts of unappropriated land, very soon adopted the idea suggested by Congress, of granting land bounties to her officers and soldiers, both on the *State* and *continental* establishments; and having it more in her power, she was more liberal than Congress in those grants.

In the preamble to an act of October, 1776, for raising six additional regiments (then called battalions) on the continental establishment, the resolutions of Congress, offering a land bounty, are recited. (See vol. 9, p. 179.) By an act of October 1778, for speedily recruiting the Virginia regiments on continental establishment, besides other inducements to enlist for three years, or during the war, the *continental bounty of lands* is expressly stipulated. (See vol. 9, pages 588, 589.)

By act of May 1779, chap. 6, "concerning officers, soldiers, sailors, and marines," a bounty of one hundred acres is promised to each private at the end of the war; and to the officers, the like quantity as is allowed to officers of the same rank in the Virginia regiments on continental establishment. (See vol. 10, p. 24.) By the same law two hundred acres are given to each volunteer soldier who served under Colonel George Rogers Clarke, until the reduction of the posts in the Illinois country, (ibid, p. 26;)

and to each soldier who should re enlist for the protection of the Illinois country, one hundred acres, (ibid, p. 27;) and the like quantity to each trooper of cavalry who should enlist for the war, for the defence of the eastern frontier. (See vol. 10, p. 27.) A quantity of land, not exceeding 150,000 acres, was reserved to satisfy the officers and soldiers under Col. George Rogers Clarke, in our cession of the northwestern territory. (See vol. 10, p. 565.)

The act of May, 1779, chap. 13, sec. 2, prescribes the evidence on which warrants for land bounties shall issue. (See vol. 10, p. 51.) By act of May, 1782, chap. 47, sec. 8, it was declared that those warrants should be granted upon producing to the register a certificate from the *Commissioner of War*, and not otherwise. (See ante, pages 83 and 84.) But by the act of October, 1782, chapter 14, the office of *Commissioner of War* was abolished, and the duties transferred to the *Executive*. (See ante, p. 133.) Ever since that period, certificates for land bounties have issued by orders of the Executive. By act of 1815, chap. 12, the Executive is authorized to allow claims for land bounty, where *satisfactory evidence* is adduced that the party is entitled; which, indeed, had been the *practice* long before, from the impossibility of complying with the requisitions of the former law.

By the act of May, 1779, chap. 13, sec. 3, referring to a resolution of the General Assembly of the 19th of December, 1778, a tract of country, bounded by the Green river, the Cumberland mountains, the Carolina line, the Tennessee river, and the Ohio river, was reserved for the officers and soldiers. (See vol. 10, pages 55 and 56.) A considerable part of this territory having fallen into North Carolina, by the extension of the boundary-line between that State and Virginia, a further tract of land, included within the rivers Mississippi, Ohio, and Tennessee, and the Carolina boundary-line, was substituted by the act of November, 1781, chap. 19, sec. 8, in lieu of that so fallen into North Carolina. By the same act, sec. 9, provision is made for surveying their lands; (further provision by deputation of officers, October, 1783, chap. 4, ante p. 309;) section 12 declares that the bounties in lands given to the officers in the Virginia line in continental service, and the regulations for surveying, shall be extended to the State officers; section 13 gives the cavalry the same advantages as the infantry; and section 14 entitles the officers and seamen of the navy to the same advantages as those in the land service. (See vol. 10, pages 465, 466, and 467.) But the act of October, 1782, (ante p. 162,) is more explicit as to the *navy*, and declares that the "officers, seamen, and marines, and their representatives, shall be entitled to the same bounty in lands and other emoluments as the officers and soldiers of the Virginia line on continental establishment."

[Chapter 9, page 141, vol. 10, October, 1779.]

Be it enacted by the General Assembly, That every person acting as chaplain, surgeon, or surgeon's mate, to any regiment or brigade of officers and soldiers raised within this commonwealth, and upon continental establishment, and who hath or shall hereafter serve in that office the space of three years, or during the war, shall be entitled to and have the like quantity of lands as is by law allowed to commissioned officers receiving the same pay and rations.

As to the *quantity* of land, the act of October, 1779, chapter 21, section 2, seems to have been the first law which fixed, with precision, the proportions of the officers and soldiers on the *continental* and *State* establishments, and in the *navy*.

[Chapter 21, section 2, pages 160 and 161, vol. 10, October, 1779.]

Be it enacted, That the officers who shall have served in the Virginia line on continental establishment, or in the army or navy upon State establishment, to the end of the present war, and the non-commissioned officers, soldiers, and sailors upon either of the said establishments, their heirs or legal representatives, shall respectively be entitled to and receive the proportion and quantities of land following: that is to say, every colonel, five thousand acres; every lieutenant colonel, four thousand five hundred acres; every major, four thousand acres; every captain, three thousand acres; every subaltern, two thousand acres; every non-commissioned officer, who, having enlisted for the war, shall have served to the end thereof, four hundred acres; and every soldier and sailor, under the like circumstances, two hundred acres; every non-commissioned officer, who, having enlisted for the term of three years, shall have served out the same, or to the end of the present war, two hundred acres; and every soldier and sailor, under the like circumstances, one hundred acres; every officer of the navy, the same quantity of land as an officer of equal rank in the army. And where any officer, soldier, or sailor shall have fallen or died in the service, his heirs or legal representatives shall be entitled to, and receive, the same quantity of land as would have been due to such officer, soldier, or sailor, respectively, had he been living.

For the war.

To a colonel	5,000 acres.
To a lieutenant colonel	4,500 do.
To a major	4,000 do.
To a captain	3,000 do.
To a subaltern	2,000 do.
To a non-commissioned officer	400 do.
To a soldier or sailor	200 do.

For three years.

To a non-commissioned officer	200 acres.
To a soldier or sailor	100 do.

[Chapter 3, pages 331 and 332, vol. 10, October, 1780.]

And each recruit, and also all our soldiers, now in service, that have already enlisted, or who may hereafter enlist, by the said first day of April next, to serve during the war, and who shall continue to serve faithfully to the end thereof, shall then receive a healthy sound negro, between the ages of ten and thirty years, or sixty pounds in gold or silver, at the option of the soldier, in lieu thereof, to be paid for or procured by

equal assessment on property; and, moreover, be entitled to three hundred acres of land, in lieu of all such bounties given by any former laws.*

[Chap. 27, secs. 4 and 5, pages 374 and 375, vol. 10, October, 1780.]

SEC. 4. And whereas no provision has been made in land for the general officers of this State in continental service: therefore, *Be it enacted*,

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* On the subject of land bounties, see the notes to page 161 of this volume, in which a reference to this act was omitted.

The provisions of this act, which grants 300 acres of land to soldiers who had enlisted or should enlist for the war, and who should serve to the end thereof, instead of 200, as by the former act of October, 1779, (ante, p. 160,) have been entirely overlooked in practice. The reason is very obvious: those who were called upon to execute the various laws upon this subject naturally looked to the *Chancellors' Revisal* as containing *all* the laws in relation to land bounties; but, unfortunately, in that collection, which was a mere *compilation*, (see note to vol. 9, p, 176,) a great number of acts were omitted, the *titles* only being published. Such was the case with the act before us. It is remarkable that, at this same session, the proportion of land bounty to officers was increased *one third*, in addition to any former bounty. (See post, chap. 27, sec. 4.) And it is but reasonable to suppose that the Legislature intended the same liberality to the soldiers. But the *title* of this act only having been printed in the *Chancellors' Revisal*, and the act at large, granting an increase of bounty to the officers, being published in that collection, the officers received their full quantity, while the soldiers have never received any land under this law.

Upon the whole, nothing seems clearer than that *all our soldiers who were in service at the passage of this act, who had already enlisted, or who might thereafter enlist by the 1st day of April, 1781, to serve during the war, are entitled to 300 acres of land, in lieu of all such bounties given by any former laws.* The former bounty, we have already seen, was 200 acres.

It may be asked, Why was not this law practised upon after the Revolution? And why has it been permitted to remain so long a dead letter upon our statute-book? If the want of its publication in the *Chancellors' Revisal*, already noticed, should not be deemed sufficient, other reasons may be offered. The act itself is a very long one, occupying nearly five quarto pages in the original, not separated by sections, and wanting marginal notes. Nor is there anything in the *title* which would lead to the conclusion that it contained any such provisions as those found to exist in it. The chancellors, in their compilation, no doubt, glancing at the title, and perceiving it to be "*An act for recruiting this State's quota of troops to serve in the continental army*," had no difficulty in writing in the margin "had its effect," and directing the title only to be published. The editor of this work candidly acknowledges that, although, for upwards of thirty years, he has made the laws of Virginia an object of his peculiar research; although, for several years of that period, he was a member of the executive council, and often called on in his official capacity to pass on claims for land bounty, and sincerely *thought* he had examined and noted *every law* in relation to that subject, yet that he never did read more than the title of this act until the present day, (August, 1822,) when he was compelled to read the whole act, in order to annotate it for the press. But is it more extraordinary that this act should pass unnoticed, which was never published in the Chancellors' Revisal, than that the act of May, 1782, chapter 47, section 9, which gave an additional bounty for every year's service over six, and which found a place in that collection, should not have been acted upon until many years had elapsed, and many hundreds of warrants had been issued, without that addition to officers and soldiers, who, after the discovery of the law, received their additional allowance? Yet such was the fact.

This allowance of 300 acres of land to soldiers who should serve to the end of the war, having been overlooked, in practice, has given rise to many conjectures. It has been supposed either that the law had been repealed, or that, as the provision contained in the same clause for granting a negro, or sixty pounds, at the option of the soldier, had never been demanded, some other law had been passed which superseded this act. To these objections it may be answered—

1st. That no law repealing that of October, 1780, chap. 3, giving the bounty of 300 acres of land, can be found on our statute-book. On the contrary, an act of the next session (March, 1781, chap. 2) expressly recognises it as being in force, and gives further time for carrying some of its provisions, which were *executory*, into effect. Indeed, it cannot be conceived how a law vesting such absolute rights could be repealed.

2d. The depreciation of paper money was so great at this period, that it was no longer an inducement to offer it. The negro, or the sixty pounds, was intended to make good the *pay*; the land was a gratuity, a *bounty*. By a subsequent law, (November, 1781, chap. 19,) reciting the depreciation of paper money, and expressing the disposition of the Legislature to do justice to the officers and soldiers, their *whole pay* is made good from the 1st of January, 1777, thus superseding the act of October, 1780, as to the *pay*, but not as to the *bounty*.

That there shall be allowed to a major general fifteen thousand acres of land, and to a brigadier general ten thousand acres of land, to be reserved to them and their heirs, in the same manner and on the same conditions as is by law heretofore directed for the officers and soldiers of the Virginia line in continental service; and there shall be, moreover, allowed to all the officers of this State, on continental or State establishments, or to the legal representatives of such officers, according to their respective ranks, an additional bounty in lands, in the proportion of one-third of any former bounty heretofore granted them.

SEC. 5. *And be it further enacted*, That the legal representatives of any officer on continental or State establishments, who may have died in the service before the bounty of lands granted by this or any former law, shall be entitled to demand and receive the same, in like manner as the officer himself might have done when living, agreeable to his rank.

To a major general - - - -	- 15,000 acres.
To a brigadier general - - -	- 10,000 do.

Officers allowed one-third in addition to former bounty, by act of October, 1780, chap. 27, sec. 4. (See vol. 10, p. 375.)

Soldiers, who serve to the end of the war, allowed 300 acres in lieu of former bounty, by act of October, 1780, chap. 3. (See vol. 10, p. 331.)

Officers and soldiers allowed one-sixth, in addition to former bounties, for every year's service over six—May, 1782, chap. 47, sec. 9.

[Chap. 20, sec. 2, p. 434, vol. 10, May, 1781.]

And be it further enacted, That every soldier who shall enlist to serve in the continental army for the term of two years, or during the war, shall be allowed the sum of ten thousand dollars, to be paid down as soon as he is sworn for that purpose, and shall also be entitled to all other immunities that other continental soldiers are.

[Chap. 38, sec. 2, p 499, vol. 10, November, 1781.

And be it enacted, That every soldier who shall enlist to serve in the continental army for the term of two years, or during the war, shall be allowed the sum of twenty dollars, to be paid down as soon as he is sworn for that purpose, and shall be entitled to all other immunities that other continental soldiers are.

Resolution for extending bounty and clothing given by law to certain officers and soldiers.

IN THE HOUSE OF DELEGATES, *November* 26, 1779.

Resolved, That all officers and soldiers, being citizens of this Commonwealth, belonging to any corps on continental establishment, and not being in the actual service of any other State, shall hereafter be entitled to all State provisions, clothing, bounty, or other emoluments, either in

land or money, which have been or shall be allowed to those belonging to the line of this State, although such officers and soldiers do not immediately serve therein; and, also, to the six months' pay presented to each officer and soldier by "An act to enable the officers of the Virginia line, and to encourage the soldiers of the same line, to continue in the continental service."

[Chap. 47, sec. 9, p. 84, vol. 11, May, 1782.]

And be it further enacted, That any officer or soldier who hath not been cashiered or superseded, and who hath served the term of three years, successively, shall have an absolute and unconditional title to his respective apportionment of the land appropriated as aforesaid; and for every year which every officer or soldier may have continued, or shall hereafter continue in service, beyond the term of six years, to be computed from the time he last went into service, he shall be entitled to one-sixth part in addition to the quantity of land appropriated to his rank respectively.

[Chap. 47, sec. 12, p. 84, vol. 11, May, 1782.]

And be it further enacted, That so many officers and soldiers in Lieutenant Colonel Lee's legion, or any other corps, as are credited to the quota of troops required from this State, and properly belonging to the same, as also all military staff officers, appointed from, and acting in, the Virginia continental line, upon producing to the auditor a certificate in favor of any such officer or soldier from the Commissioner of War, shall be allowed certificates for depreciation and arrears of pay, in like manner and upon the same terms as the other troops raised by this State; and the Commissioner of War is hereby authorized and required to take the most effectual precautions which he may think proper, precisely to ascertain the claims of such staff officers.

[Chap. 47, sec. 13, p. 85, vol. 11, May, 1782.]

And be it further enacted, That the navy officers, sailors, and marines of this State, shall, in all respects, have the same claims, and be subject to the same restrictions and regulations, in all matters coming within the purview of this act, as are allowed to the officers and soldiers in the land service of the same.

[Chap. 35, sec. 3, pages 161 and 162, vol. 11, October, 1782.]

And that all officers, seamen, and marines, or their representatives, shall be entitled to the same bounty in lands and other emoluments as the officers and soldiers of the Virginia line on continental establishment.

[Chap. 4, pages 309 and 310, sec. 1, vol. 11, October, 1783.]

AN ACT for surveying the lands given by law to the officers and soldiers on continental and State establishments, and for other purposes.

Provided, That a general officer shall not be allowed more than six, a field officer five, and a captain and subaltern four, surveys in their respective apportionments of land, and the staff in proportion.

[Chap. 4, p. 312, sec. 4, vol. 11, October, 1783.]

And be it further enacted, That the surveyors under the direction of the superintendents, and the claimants having a right to survey from the priority of their numbers, shall proceed in the first place to survey all the good lands, to be adjudged of by the superintendents, in that tract of country lying on the Cumberland and Tennessee rivers, as set apart by law for the said officers and soldiers, and then proceed in like manner to survey on the northwest side of the river Ohio, between the rivers Scioto and the Little Miami, until the deficiency of all military bounties in lands shall be fully and amply made up.

[Chap. 16, secs. 1 and 2, vol. 11, pages 447 and 448, October, 1784.]

AN ACT authorizing the Governor, with the advice of the Council, to suspend, when necessary, the surveying of certain lands in the western country.*

Whereas it has been represented to the present General Assembly, that the taking possession of, or surveying, the lands in the western territories of this State, which have been granted by law, as bounties to the officers and soldiers of the Virginia line, will produce great disturbances:

Be it therefore enacted, That the Governor, with the advice of the Council, shall be, and he is hereby, authorized and empowered to suspend, for such time as he may think the tranquillity of the Government may require, the surveying or taking possession of those lands that lie on the northwest side of the river Ohio, or below the mouth of the river Tennessee, and which have been reserved for the officers and soldiers of the Virginia line and the Illinois regiment.

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* In consequence of this act, two proclamations were issued by the Governor—the one on the 6th of January, 1785, the other on the 25th of January, 1787. The first cannot now be found; but the last, which refers to it, is here inserted:

VIRGINIA, *to wit:*

By, &c., Governor of the Commonwealth.

A PROCLAMATION.

Whereas, in pursuance of the act of the General Assembly entitled "An act authorizing the Governor, with the advice of the Council, to suspend, when necessary, the surveying of certain lands in the western country," his excellency the Governor, with the advice of the Council of State, on the 6th day of January in the year of our Lord 1785, did suspend the taking possession and surveying of any lands on the northwest side of the Ohio, or below the mouth of the river Tennessee, until authority for that purpose should thereafter be given, it appearing that the tranquillity of the Government did at that time require such suspension; but whereas the United States in Congress assembled, on the 9th day of May, in the year of our Lord, 1786, did resolve "that the surveyors, appointed pursuant to the ordinance for ascertaining the mode of disposing of lands in the western territory, should proceed in the execution thereof, within the east and west line therein mentioned," and the superintendents of the surveys to be made on the lands allotted to the Virginia line on continental establishment have requested that so much of the said proclamation as relates to the lands on the northwest side of the Ohio should be annulled, I have therefore thought fit, with the advice of the Council of State, hereby to annul so much of the said proclamation as relates to the lands on the northwest side of the Ohio.

Given under my hand, and the seal of the Commonwealth, this 25th day of January, in the year of our Lord 1787.

EDMUND RANDOLPH.

No. 2.

CESSION OF THE NORTHWESTERN TERRITORY.

[Page 566, vol. 11, Hening's Statutes at Large.]

The resolution of Virginia for ceding the northwestern territory to the United States commences on page 564. This resolution was printed *verbatim* from the original manuscript, preserved in the Clerk's office of the House of Delegates. In a note to page 565, the editor has expressed his conviction that the words "and upon their own State establishment," which are in the original, were accidentally omitted in the copy sent to the Governor, or in some subsequent proceedings founded upon it. He is now satisfied that the mistake originated in the first copy of the resolution made for the Governor in the Clerk's office of the House of Delegates. In the *original manuscript*, the word "establishment" occurs at the beginning and end of the line, as in the following extract, which is printed word for word, and *line* for line, with the original:

> "That in case the quantity of good lands of the southeast side of the Ohio, upon the waters of Cumberland river and between the Green river and the Tennessee river which have been reserved by law for the Virginia troops upon continental establishment *and upon their own State establishment* should (from the North Carolina line bearing in further upon the Cumberland lands than was expected) prove insufficient for their legal bounties, the deficiency shall be made up to the said troops in good lands to be laid off between the rivers Scito and Little Miamis on the northwest side of the river Ohio in such proportions as have been engaged to them by the laws of Virginia."

The eye of the copyist, after writing the word "establishment," where it first occurs, glanced at the original, and seeing the same word again at the end of the line, passed on to the next line—a circumstance which frequently occurs in copying.

This resolution was the basis of an act of cession of the northwestern territory of December, 1783. (See 11 Hen. Stat. at Large, November, 1783, chap. 18; Chan. Rev. p. 214; and Laws of Virginia, editions 1794, 1803, and 1814, chap. 7; and Rev. Code of 1819, vol. 1, chap. 5.)

It is most obvious that, in transcribing the resolution, or in some copy of the subsequent proceedings founded on it, the words "and upon their own State establishment" were inadvertently omitted by the clerk. For it cannot be presumed that the State of Virginia, who had by several solemn acts of the Legislature, declared that the bounties in land given to the officers and soldiers of the Virginia line on continental establishment, should be extended to those on State establishment, would make provision for the one class in the ceded territory, and omit the other. Nor is it within the bounds of probability, that, while Virginia was *giving* away such an extensive territory to the United States, she should not so have *disposed of the gift* as to do complete justice to her own citizens. (Hening's Statutes at Large, vol. 10, p. 564.)

The following resolution of Congress, of the 13th of September, 1783,

which professes to recite all the conditions of our resolution for ceding the northwestern territory, omits the words "and upon their own State establishment;" which is conclusive proof that those words were not contained in the copy sent by the Governor to our delegate in Congress, because all the *other conditions* being truly recited, *that*, stipulating the reservation of land for the officers and soldiers, would also have contained the words "and upon their own State establishment," had they been in the copy.

The committee, consisting of Mr. Rutledge, Mr. Ellsworth, Mr. Bedford, Mr. Gorham, and Mr. Madison, to whom were referred the act of the Legislature of Virginia of the 2d of January, 1781, and the report thereon, report that they have considered the several matters referred to them, and observe that the Legislature of Virginia, by their act of the 2d of January, 1781, resolved that they would yield to the Congress of the United States, for the benefit of the said States, all right, title, and claim which the said Commonwealth hath to the lands northwest of the river Ohio, upon the following conditions, viz:

I. That the territory so ceded should be laid out and formed into States, containing a suitable extent of territory, not less than one hundred nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so formed should be distinct republican States, and admitted members of the federal Union, having the same rights of sovereignty, freedom, and independence as the other States.

II. That Virginia should be allowed and fully reimbursed by the United States her actual expenses in reducing the British posts at the Kaskaskies, at St. Vincent's, the expenses of maintaining garrisons, and supporting civil government there since the reduction of the said posts, and, in general, all the charge she has incurred on account of the country on the northwest side of the Ohio river since the commencement of the present war.

III. That the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincent's, and the neighboring villages, who have professed themselves citizens of Virginia, should have their possessions and titles confirmed to them, and should be protected in the enjoyment of their rights and liberties; for which purpose troops should be stationed there, at the charge of the United States, to protect them from the encroachments of the British forces at Detroit or elsewhere, unless the events of the war should render it impracticable.

IV. As Colonel George Rogers Clarke planned and executed the secret expedition by which the British posts were reduced, and was promised, if the enterprise succeeded, a liberal gratuity in lands in that country, for the officers and soldiers who first marched thither with him; that a quantity of land, not exceeding 150,000 acres, should be allowed and granted to said officers and soldiers, and the other officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as the majority of the officers should choose, and to be afterwards divided among the said officers and soldiers, in due proportion, according to the laws of Virginia.

V. That in case the quantity of good lands on the southeast side of the Ohio, upon the waters of Cumberland river, and between the Green river

and Tennessee river, which have been reserved by law for the Virginia troops upon continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia.

VI. That all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, should be considered as a common fund for the use and benefit of such of the United American States as have become, or shall become, members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and should be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever.

VII. And therefore, that all purchases and deeds from any Indian or Indians, or from any Indian nation or nations, for any lands within any part of the said territory, which have been, or should be, made for the use or benefit of any private person or persons whatsoever, and royal grants within the ceded territory, inconsistent with the chartered rights, laws, and customs of Virginia, should be deemed and declared absolutely void and of no effect, in the same manner as if the said territory had still remained subject to, and part of, the Commonwealth of Virginia.

VIII. That all the remaining territory of Virginia, included between the Atlantic ocean and the southeast side of the river Ohio, and the Maryland, Pennsylvania, and North Carolina boundaries, should be guarantied to the Commonwealth of Virginia by the said United States.

Whereupon your committee are of opinion, that the first condition is provided for by the act of Congress of the 10th of October, 1780.

That, in order to comply with the second condition, so far as has been heretofore provided for by the act of the 10th of October, 1780, it is agreed that one commissioner should be appointed by Congress, one by the State of Virginia, and another by those two commissioners; who, or a majority of whom, should be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by the said State, which they may judge to be comprised within the true intent and meaning of the said recited act.

With respect to the third condition, the committee are of opinion that the settlers therein described should have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties.

Your committee are further of opinion that the fourth, fifth, and sixth conditions, being reasonable, should be agreed to by Congress.

With respect to the seventh condition, your committee are of opinion that it would be improper for Congress to declare the purchases and grants therein mentioned, absolutely void and of no effect; and that the sixth condition, engaging how the lands beyond the Ohio shall be disposed of, is sufficient on this point.

As to the last condition, your committee are of opinion that Congress cannot agree to guaranty to the Commonwealth of Virginia the land described in the said condition, without entering into a discussion of the

right of the State of Virginia to the said land; and that, by the acts of Congress, it appears to have been their intention (which the committee cannot but approve) to avoid all discussion of the territorial rights of individual States, and only to recommend and accept a cession of their claims, whatsoever they might be, to vacant territory. Your committee conceive this condition of a guarantee to be either unnecessary or unreasonable; inasmuch as, if the land above mentioned is really the property of the State of Virginia, it is sufficiently secured by the confederation; and if it is not the property of that State, there is no reason or consideration for such guarantee.

Your committee, therefore, upon the whole, recommend that if the Legislature of Virginia make a cession conformable to this report, Congress accept such cession.

And on the question to agree to this resolution by yeas and nays, it was resolved in the affirmative. (Journals of Congress, vol. 4, p. 265.)

B.

Abstract of ordinances and acts for raising forces for defence of the State, and for the continental line.

[Compiled from Hening's Statutes at Large.]

Title of acts or ordinances.	Date.	Chap.	Sec.	Page.	Vol.	Kind and number of troops.	Time of enlistment.
An ordinance for raising and embodying a sufficient force for the defence and protection of the colony.	July, 1775	1	1	9	9	Two regiments of regulars raised -	Not compelled to continue longer than one year.
Do do do -	do	1	13	16	9	Regiment to be raised in district of Accomack and Northampton.	Do do do.
Do do do -	do	1	14	17	9	Battalion in the other districts - -	Do do do.
Do do do -	do	1	-	13	9	Two companies for protection of western frontiers.	Do do do.
An ordinance for raising an additional number of forces for the defence and protection of this colony, and for other purposes.	Dec. 1775	1	1	75	9	Two former regiments of regulars augmented.	Not more than two years.
Do do do -	do	1	2	76	9	Six additional regiments raised - -	Do do do.
Do do do -	do	1	3	76	9	Another regim't for Accomack and Northampton.	Do do do.
Do do do -	do	1	11	82	9	Seventeen additional rifle companies raised	Do do do.
Do do do -	do	1	14	83	9	Artillery company raised, and armed vessels to be provided by Committee of Safety.	Do do do.
An ordinance for augmenting the 9th regiment of regular forces, providing for the better defence of the frontiers of this colony, and for raising six troops of horse.	May, 1776	11	-	135	9	The ninth regiment of regulars augmented.	Not compelled to continue longer than one year.
Do do do -	do	1	-	137	9	Six troop of horse raised - -	Do do do.
An act for raising six additional battalions of infantry, on the continental establishment.	Oct. 1776	11	-	179	9	Forces already in continental service estimated as part of the fifteen battalions to be raised by Virginia. ☞It is said that regiments were sometimes designated as battalions, and vice versa.	
An act for making a further provision for the internal security and defence of this country.	Oct. 1776	13	-	192	9	Three battalions of infantry raised, to garrison the fortification.	For three years, unless sooner discharged.

B—ABSTRACT—Continued.

Title of acts or ordinances.	Date.	Chap.	Sec.	Page.	Vol.	Kind and number of troops.	Time of enlistment.
An act for making a further provision for the internal security and defence of this country.	Oct. 1776	13	–	196	9	Two frigates and four galleys to be built.	
Do do do -	do	13	–	198	9	Artillery company formed in Alexandria.	
An act to amend an act entitled "An act for raising six additional battalions of infantry, on the continental establishment."	Oct. 1776	21	–	213	9	- - - - - -	Term of enlistment of troops altered, from the war to 3 years.
An act for the more speedily completing the quota of troops to be raised in this commonwealth for the continental army, and for other purposes.	May, 1777	2	–	278	9	Battalion of ten companies of artillery, for garrison duty, to be raised.	
An act for speedily recruiting the Virginia regim'ts on the continental establishment, and for raising additional troops of volunteers.	Oct. 1777	1	–	338	9	Colonel Geo. Gibson's battalion of State troops continued in continental service, instead of ninth regiment, captured at Germantown.	
An act for raising volunteers to join the grand army.	May, 1778	1	–	446	9	Two thousand volunteers to be raised to join the grand army.	Enlistments to cease after 1st day of August.
An act for raising a regiment of horse -	May, 1778	2	–	449	9	Regiment of cavalry to be raised, to join the continental army.	
An act for raising a battalion of infantry for garrison duty, and for other purposes.	May, 1778	3	–	452	9	Battalion of infantry to be raised for garrison duty.	To continue in service three years, unless sooner discharged.
An act for recruiting the continental army, and for other purposes.	May, 1778	4	–	454	9	- - - - - -	Future enlistments for continental army—*three* years, or during the war.
An act for speedily recruiting the Virginia regiments on continental establishment.	Oct. 1778	45	–	588	9	Additional forces to be raised, and regiments of infantry recruited, by raising 2,216 men.	For three years, or during the war.
An act for raising a body of volunteers for the defence of the commonwealth.	May, 1779	4	–	18	10	Volunteers to be raised, 4,560 men -	One month after withdrawal of the enemy.
Do do do -	do	4	–	20	10	Volunteers for western frontier, two battalions.	To continue in service nine months, from 10th June next.
An act concerning officers, soldiers, sailors, and marines.	May, 1779	6	–	26	10	Troop of cavalry for protection of Illinois	During the war.
Do do do -	do	6	–	27	10	Four troops of cavalry for eastern frontier	During the war.

An act for raising a body of cavalry -	May,	1779	8		28	10	Troop of cavalry to be raised at discretion of Executive, during existing invasion.	To continue in service during invasion, unless sooner discharged.
An act for raising a body of troops for the defence of the commonwealth.	May,	1779	11	-	32	10	Four regiments of infantry to be raised, two for defence of western and two for eastern frontier.	To continue in service until 21st December, 1781.
An act for speedily recruiting the quota of this State for the continental army.	May,	1780	12	-	257	10	Additional force to be raised to complete this State's quota, on continental establishment, 3,000 men.	
An act for recruiting this State's quota of troops, to serve in the continental army.	Oct.	1780	3	-	326	10	Additional troops for the war to be raised, 3,000 men.	
An act to revive and amend an act entitled "An act for giving further powers to the Governor and Council."	Oct.	1780	32	-	389	10	Governor authorized to raise any number of volunteers, in case of invasion.	
An act to raise two legions, for the defence of the State.	May	1781	1	-	391	10	Two legions to be raised, to consist of six companies of infantry and one troop of cavalry, each.	To serve during the war.
An act to amend the act for raising two legions for the defence of the State.	May,	1781	3	-	410	10	Troops in the two legions exempted from draughts.	For three years.
An act for enlisting soldiers to serve in the continental army.	May,	1781	20	-	433	10	Officers appointed to enlist any number of soldiers not exceeding 3,000.	For two years, or the war.
An act for recruiting this State's quota of troops, to serve in the army of the United States.	May,	1782	3	-	14	11	Three thousand troops for continental army to be raised.	For three years, or the war if not to be draughted for three years.
An act concerning the two legions raised by this State.	Oct.	1782	16	-	135	11	Soldiers belonging to the two legions authorized to enlist in the continental army.	
An act concerning the legion under the command of Colonel Dabney.	Oct.	1782	41	-	170	11	The continental army may be recruited by enlistments from Col. Dabney's legion.	

C.

A list of officers for whose revolutionary services Virginia military land warrants were issued prior to December 31, 1784.

GENERALS.

Clarke, George R.
Gates, Horatio
Lawson, Robert
Mercer, Hugh
Morgan, Daniel
Muhlenberg, Peter
Scott, Charles
Steuben, Baron
Weedon, George
Woodford, William

COLONELS.

Baylor, George
Bland, Theodorick
Brent, William
Buford, Ambrose
Campbell, Richard
Crawford, William
Davis, William
Fieberger, Christian
Finnie, William
Flemming, Thomas
Gist, Nathaniel
Gibson, John
Green, John
Grayson, William
Harrison, Charles
Heth, William
Marshall, Thomas
Matthews, George
McClanahan, Alexander
Muter, George
Nevil, John
Read, Isaac
Russell, William
Smith, Gregory
Stephenson, Hugh
Towles, Oliver
Wood, James

LIEUTENANT COLONELS.

Allison, John
Anderson, Richard E.
Ballard, Robert
Byrd, Otway
Cabell, Samuel J.
Carrington, Edward
Clark, Jonathan
Cocke, Nathaniel
Crockett, Joseph
Cropper, John
Dabney, Charles
Darke, William
Edmonds, Elias
Flemming, Charles
Gaskins, Thomas
Haws, Samuel
Hopkins, Samuel

LIEUT. COLONELS—Cont'd.

Jameson, John
Levin, Joines
Lee, Henry
Mathews, Thomas
Meade, Richard K.
Montgomery, Jno.
Nevil, Presley
Nelson, William
Porterfield, Charles
Powell, Levin
Posey, Thomas
Richardson, Holt
Simms, Charles
Taliaferro, William B.
Taylor, Richard
Temple, Benjamin
Wallace, Gust. B.
Warmock, Frederick
Washington, William
Webb, John

OTHER OFFICERS.

Alexander, George
Allen, David
Allen, Edward
Allen, John
Anderson, John
Anderson, Robert
Archer, Joseph
Archer, Peter F.
Archer, Richard
Armistead, Thomas
Armistead, William
Ashby, Stephen
Ashby, Benjamin
Ballard, William
Barbee, Thomas
Balmain, Alexander
Baylor, Walker
Baskerville, Samuel
Barron, James
Ball, Burgess
Baynham, John
Barbour, James
Bowyer, Thomas
Bowyer, Michael
Banks, James
Baytop, James
Baytop, John
Ballard, William
Baytop, Thomas
Baylis, William
Baylis, Henry
Barnett, William
Barnett, Chiswell
Barksdale, John
Ball, Daniel
Bailey, John
Barbee, Thomas

OTHER OFFICERS—Cont'd.

Baldwin, Cornelius
Bentley, William
Beale, Robert
Bedinger, Henry
Bell, Thomas
Bernard, William
Bennett, William
Beck, John
Beale, Robert
Berry, George
Bilfield, Jno.
Bell, Henry
Biggs, Benjamin
Blackwell, Jos.
Blackwell, Jno.
Blackwell, Samuel
Blackmore, George
Blanden, Seth
Blair, Jno.
Bowne, Thomas
Booker, Samuel
Booker, Lewis
Bohanan, Ambrose
Bowyer, Henry
Boush, Charles
Bowen, John
Boswell, Meachem
Brodie, Ludwick
Browne, Windsor
Brookes, Walker
Bradford, Samuel K.
Brackenridge, Alexander
Brown, Jacob
Brownlie, William
Brown, William
Brown, John
Brittain, John
Brackenridge, Robert
Bruin, Peter B.
Brooke, Edmund
Brooke, Francis
Brooke, John
Brown, Robert
Broadus, James
Broadus, William
Bradley, James
Brashier, Richard
Bradley, Christopher
Butler, Lawrence
Burton, Hutchins
Burfoot, Thomas
Bucker, Thomas
Butler, Samuel
Bullock, Rice
Burwell, Nathaniel
Christie, Thomas
Campbell, William
Campbell, Samuel
Campbell, Archibald
Carrington, Mayo

LIST—Continued.

OTHER OFFICERS—Cont'd.

Carrington, George
Carrington, Clement
Callender, Eleazer
Carter, John C.
Carter, Thomas
Calmes, Marquis
Cannon, Luke
Casey, Benjamin
Carney, Martin
Carey, Samuel
Catlett, Thomas
Carnes, Patrick
Call, Richard
Calvert, Joseph
Chamberlayne, George
Chapman, John
Chilton, John
Cherry, William
Chaplin, Abraham
Clay, Matthew
Clements, Mace
Clayton, Phil.
Clay, Thomas
Clark, Richard
Clark, William
Clark, Edmund
Clark, John
Claiborne, Richard
Cleverius, James
Coleman, Samuel
Coleman, Jacob
Coleman, Whitehead
Coleman, John
Coleman, Richard
Coleman, Wyatt
Cowherd, Francis
Cowne, Robert
Cowne, Augustine
Coverley, Thomas
Cotterill, William
Conway, Joseph
Coke, Colvin
Coke, Pleasant
Cooper, Leonard
Crogham, William
Crogham, W., (per resn.)
Craddock, Robert
Crawford, John
Crump, Abner
Crittenden, John
Crame, James
Craig, James
Crute, John L.
Cunningham, William
Cubberton, James
Curry, James
Dandridge, John
Davis, Joseph
Dawson, Henry
Dandridge, Robert
Dandridge, Alexander
Darby, Nathaniel
Dade, Francis
Davenport, Opie

OTHER OFFICERS—Cont'd.

Dedham, Archibald
Delaplaine, James
Dix, Thomas
Digges, Dudley
Dickerson, Edmonds
Dixon, Anthony F.
Dick, Alexander
Dicklawman, Chrt.
Dobson, Robert
Drew, Thomas H.
Drew, Thomas H.
Drew, John
Draper, George
Dudley, Henry
Dudley, Robert
Duff, Edward
Durall, Daniel
Dye, Jonathan
Easton, Philip
Easton, Richard
Edmonds, Thomas
Eddins, Samuel
Edwards, Leroy
Edmondson, Benjamin
Eggleston, Joseph
Eggleston, William
Eppes, William
Eppes, William
Erskine, Charles
Eskridge, William
Eustace, John
Eustace, John
Evans, George
Evans, William
Ewell, Charles
Ewell, Thomas
Ewing, Alexander
Fantleroy, Henry
Fantleroy, Griffin
Finn, Thomas
Findley, Samuel
Ferguson, Robert
Fields, Reuben
Fitzgerald, Jno.
Fitzgerald, Jno.
Fitzhugh, William
Fitzhugh, Peregrine
Fleet, John
Fleet, Henry
Flemming, Jno.
Fowler, William
Fox, Thomas
Fox, Nathaniel
Foster, James
Foster, Robert
Foster, Jno.
Frazey, Falvey
Gault, Patrick
Gault, John Munson
Gaines, William Fleming
Garland, Peter
Gamble, Robert
George, William
Gerault, Jno.

OTHER OFFICERS—Cont'd.

George, Robert
Gibson, Jno., jr.
Gilchrist, George
Gill, Samuel
Gibbs, Churchill
Gillison, John
Giles, John
Glascock, Thomas
Gordon, Arthur
Gordon, Ambrose
Goodwin, Dinwiddie
Green, John
Green, Robert
Green, Samuel B.
Green, Gabriel
Graves, William
Gray, Godfrey
Gray, William
Griffith, David
Graham, Walter
Gratton, John
Gray, Francis
Gray, James
Gray, George
Griffith, David
Greer, Charles
Guthrie, George
Hardiman, Jno.
Hayes, Jno
Harrison, Jno. P.
Harrison, Jno.
Harrison, Valentine
Harrison, Charles
Harrison, James
Harrison, Richard
Harrison, William B.
Harper, James
Hackley, Jno.
Hamilton, James
Hays, Thomas
Harcum, Rhodam
Harris, John
Harris, Jourdan
Harris, John
Haney, Holland
Hawkins, Jno.
Hawkins, Moses
Harvie, Jno.
Heth, Jno.
Heth, Henry
Healy, Martin
Henderson, David
Herbert, Thomas
Hill, Thomas
Hill, Baylor
Hite, George
Hite, Abraham
Hite, Isaac
Higgins, Peter
Higgins, Robert
Holmes, Benjamin
Hoomes, Tho. C.
Hoomes, David
Hoomes, Isaac

LIST—Continued.

OTHER OFFICERS—Cont'd.

Holt, Jno. H.
Holt, Thomas
Holt, James
Hourd, Thomas
Hoffler, William
Holdcombe, John
Hockaday, Phil.
Holland, George
Howell, Vincent
Hogg, Samuel
Holmer, Christian
Hughs, Pratt
Hughs, John
Hughs, Jasper
Hughs, Henry
Hudson, John
Humphreys, Jno.
Hurt, Jno.
Huffman, Phil.
James, Michael
Jennings, John
Jones, Samuel
Jones, Strother
Jones, Lewis
Jones, Lewis, jr.
Jones, Charles
Jones, Peter
Jones, Albrighton
Jones, Churchill
Jones, Cadwallader
Jouett, Matthew
Jouett, Robert
Johnson, Gideon
Johnson, William
Johnson, John B.
Johnson, William
Johnson, Peter
Joliffe, John
Jordan, John
Jones, Gabriel
Inniss, James
Kays, Robert
Kautzman, John
Kenidy, James
Kemp, Peter
Kemp, James
Kelly, Thaddy
Kerny, Jno.
Kinley, Benjamin
Kennon, Jno.
Keith, Isham
Keller, Abraham
Kendall, Custis
Kirk, Robert
King, Elisha
King, Miles
Kirkpatrick, Abr.
Knight, Jno.
Knox, James
Lapsley, Samuel
Lapsley, Jno.
Lawson, Benjamin
Langham, Elias
Larty, Jno.

OTHER OFFICERS—Cont'd.

Lawson, Claiborne
Lewis, William
Lewis, George
Lewis, Addison
Lewis, Stephen
Lewis, Andrew
Lee, John
Lee, John
Lee, Phil. Francis R.
Leigh, John
Leitch, Andrew
Lipscomb, Bernard
Lipscomb, Reuben
Lindsey, William
Lightburn, Richard
Livingston, Justice
Linton, John
Lilley, Thomas
Lipscomb, Yancey
Lovely, William L.
Long, William
Long, Reuben
Longworth, Burgess
Long, Gabriel
Longsford, William
Ludiman, William J.
Lucas, James
Lucas, Nathaniel
Lyne, Arthur
Marks, Jno.
Marshall, Jno.
Marshall, Thomas
Marshall, Humphrey
Marshall, James M.
Mallory, Phil.
Maury, Abraham
Mabin, James
Mann, David
Marston, John
Massey, Thomas
Marks, Isaiah
Markham, James
Martin, Thomas
Mazaret, John
Magill, Charles
McDowell, Jno.
McWilliams, Josa.
McMahon, William
McClung, James
McClung, Walter
McGuire, William
McAdam, Joseph
McCarty, Richard
McAdams, Jno.
McElhany, John
Meriwether, Thomas
Meriwether, David
Meriwether, James
Meriwether, James
Meriwether, James
Meade, Everard
Mercer, Jno. F.
Meredith, William
Mills, John

OTHER OFFICERS—Cont'd.

Miller, David
Miller, Jarran
Miller, Thomas
Miller, William
Minnis, Francis
Minnis, Holman
Minnis, Callohill
Middleton, Bazill
Moody, Edward
Moody, James
Morton, James
Moseley, Benjamin
Moseley, William
Moseley, Benjamin
Moon, Alexander
Moore, William
Moore, Jno.
Moore, Peter
Moore, Elson
Moss, Henry
Morrow, Robert
Morton, Hezekiah
Morgan, Simeon
Morgan, Spencer
Montague, Richard
Montgomery, James
Moxley, Rhodam
Mountjoy, William
Muir, Francis
Munroe, James
Muir, John
Murray, Abraham
Munroe, George
Nelson, John
Nelson, John
Nelson, Roger
Nixon, Andrew
Norvell, Lipscomb
Noland, Pierce
Nuttall, Iveson
Oldham, Conway
Oliver, William
O'Neal, Ferdinand
Overton, Thomas
Overton, John
Payne, Thomas
Payne, Tarlton
Payne, Joseph
Payne, Josias
Parker, Thomas
Parker, Richard
Parker, Nicholas
Parker, William H.
Parker, Alexander
Parker, Josiah
Parker, Thomas
Parsons, William
Patterson, Thomas
Payton, Dade
Page, Carter
Peyton, John
Peyton, Valentine
Peyton, Henry
Peyton, George

LIST—Continued.

OTHER OFFICERS—Cont'd.

Peyton, Robert
Pendleton, James
Pendleton, Nathaniel
Pelham, Charles
Pemberton, Thomas
Pearson, Thomas
Perry, Jno.
Pettus, Jno. R.
Perault, Michael
Perkins, Archelaus
Philips, Samuel
Pierce, William
Porterfield, Robert
Pointer, William
Poulson, Jno.
Powell, Robert
Powell, Thomas
Powell, Peyton
Powell, Francis
Powers, Robert
Poythress, William
Porter, William
Porter, William
Pope, Matthew
Prior, John
Pride, William R.
Pugh, Willis
Purvis, James
Quarles, James
Quarles, Henry
Quarles, Thomas
Quarles, Robert
Quarles, William P.
Quarles, John
Quarles, John
Quirk, Thomas
Ragsdale, Dreary
Randolph, Robert
Rankins, Robert
Ransdall, Thomas
Read, Nathaniel
Read, Edmund
Read, Clement
Renner, John
Reddick, Jason
Reddick, Willis
Rhea, Matthew
Rice, George
Rice, Nathaniel
Richardson, Walker
Richardson, Daniel
Ridley, Thomas
Rickman, William
Robertson, William
Robertson, James
Robins, John
Robins, John
Roberts, John
Rose, Robert
Robinson, John
Roane, Christopher
Rogers, John
Rogers, William
Roy, Beverley

OTHER OFFICERS—Cont'd.

Roney, John
Russell, John
Russell, Albert
Russell, Charles
Russell, Andrew
Rust, Benjamin
Rucker, Augus
Rucker, Elliott
Rudder, Epaphro.
Rydman, John
Saunders, William
Saunders, Jos.
Saunders, Richard
Saunders, Celey
Savage, Joseph
Savage, Nathaniel
Sansum, Phil.
Sayres, Robert
Scott, Charles
Scott, Walter
Scott, John
Scott, Joseph, jr.
Scott, John
Scott, John
Scott, Joseph, sen.
Sayers, Thomas
Settle, Strother
Seldon, Samuel
Shepherd, Abraham
Shearman, Martin
Shelton, Clough
Shield, John
Shackelford, William
Singleton, Joseph
Singleton, Anthony
Skinner, Alexander
Slaughter, John
Slaughter, Phil.
Slaughter, William
Slaughter, Lawrence
Slaughter, George
Slaughter, Augustine
Smith, Obadiah
Smith, William
Smith, Granville
Smith, Nathan
Smith, Francis
Smith, Gregory
Smith, Jonathan
Smith, William S.
Smith, Ballard
Smith, Larkin
Smart, Richard
Snead, Smith
Southall, Stephen
Spottswood, Jno.
Spencer, William
Spencer, Jno.
Spiller, William
Springer, Jacob
Springer, Uriah
Stith, John
Stith, John
Stephenson, David

OTHER OFFICERS—Cont'd.

Steele, John
Steele, William
Stokeley, Charles
Steed, Jno.
Stribling, Sigismond
Stribling, Erasmus
Stubblefield, George
Stubblefield, Beverley
Stoakes, Jno.
Stephens, William
Stephens, Edward
Stuart, Phil.
Starke, William
Starke, Richard
Stott, William
Summers, Simon
Summerson, Gavin
Suoorpe, John
Swearingen, Joseph
Swann, John
Tabb, Augustine
Taliaferro, Benjamin
Taliaferro, Nicholas
Taylor, Benjamin
Taylor, Richard
Taylor, Reuben
Taylor, Francis
Taylor, Isaac
Taylor, William
Taylor, Thornton
Tatem, Zack.
Tannehill, Josiah
Terry, Nathaniel
Thompson, William
Thompson, George
Thornton, Presley
Thomas, Lewis
Throckmorton, Albion
Thweatt, Thomas
Tibbs, Thomas
Tinsley, Samuel
Tompkins, Robert
Tompkins, Henry
Tompkins, Christopher
Tompkins, Daniel R.
Townes, John
Todd, Robert
Trent, Lawrence
Trezvant, Jno.
Trabue, Jno.
Travis, Edward
Triplett, George
Tutt, Charles
Turner, John
Tupman, John
Tyler, John
Upshaw, Thomas
Upshaw, James
Vanmeter, Jos.
Vance, Robert
Vanse, William
Vaughan, Claiborne
Vaughan, John
Valentine, Edward

LIST—Continued.

OTHER OFFICERS—Cont'd.	OTHER OFFICERS—Cont'd.	OTHER OFFICERS—Cont'd.
Valentine, Jacob	Waddy, Sharphigh	Williams, David
Vanderwall, Marks	Welsh, Nathaniel	Williams, Jarrett
Volluson, Armand	Webb, Isaac	Williams, Jno.
Vawter, William	West, Charles	Willis, Jno. W.
Vowles, Charles	White, Robert	Willis, Henry
Vowles, Henry	White, Jno.	Winlock, Jos.
Vowles, Walter	White, Jno.	Woodson, Frederick
Warman, Thomas	White, Turpley	Woodson, Hughes
Wallace, William B.	White, William	Woodson, Tarlton
Wallace, James	White, Thomas	Woodson, Robert
Wallace, James	White, William	Worsham, Jno.
Wallace, Adam	White, William	Worsham, Richard
Wallace, Andrew	Whitaker, William	Worsham, William
Walker, Jacob	Whiting, Henry	Wright, Westcoat
Walker, David	Whiting, Francis	Wright, James
Walker, Levin	Wilson, Willis	Wright, Patrick
Walker, Levin	Wilson, Willis	Wyatt, Carey
Waggoner, Andrew	Winston, Benjamin	Yarbrough, Charles
Walters, Richard C.	Winston, Jno.	Yancey, Leighton
Watts, John	Winston, William	Yancey, Robert
Walls, George	Williams, James	Young, Henry
Washington, George	Williams, Edward	

AGGREGATE.

Generals - - - - - - - -	10
Colonels - - - - - - - -	27
Lieutenant colonels - - - - - - -	37
Other officers - - - - - - -	738
Total - - - - -	812

Of the above officers, 595 belonged to the continental line.

S. H. PARKER, *Register Land Office.*

No. 5.

(Letter 1.)

GENERAL LAND OFFICE, *April* 15, 1844.

SIR: In compliance with your request of the 10th inst., I have the honor herewith to transmit you a statement showing the average quantity of bounty land allowed by Virginia to her revolutionary officers, and the average quantity allowed by the United States to the officers of the federal or continental army; together with a statement showing the exact quantity, in acres, allowed each officer, as well by Virginia as the United States, from a major general down to an ensign, to wit:

	Allowed by the United States.	Allowed by Virginia.
1st. Major general	1,100 acres.	15,000 acres.
2d. Brigadier general	850 "	10,000 "
3d. Colonel	500 "	7,777 "
4th. Lieutenant colonel	450 "	6,666 "
5th. Major	400 "	5,333 "
6th. Captain	300 "	4,000 "
7th. Lieutenant	200 "	2,666 "
8th. Ensign	150 "	2,666 "
	3,950	54,008

Thus it will be seen that the aggregate quantity allowed by the United States to these officers (eight in number) amounts to 3,950 acres; and that the aggregate quantity allowed by Virginia to the same officers amounts to 54,008 acres, which will give the average quantity allowed each officer in each corps, as follows, to wit:

Average quantity allowed each officer by the United States - 493 acres.
" " " " by Virginia - 6,751 "

You mention that Mr. Hall computes the average quantity allowed by the United States at 250 acres, and that allowed by Virginia at 3,500 acres; and that he asserts that the former is only one-fourth of the latter. This calculation is certainly a mistake; for, instead of the average quantity allowed by the United States being 250 acres, it is 493; and instead of the average quantity allowed by Virginia being 3,500 acres, it is 6,751; and instead of the former being in the proportion of one-fourth of the latter, it is one-fourteenth.

In this estimate I have not taken into consideration the additional land bounty allowed by Virginia for services over six years, which would increase the aggregate as well as the average quantities to the Virginia officers, as no such additional bounty was allowed by the United States.

I am, sir, very respectfully, your obedient servant,

THOS. H. BLAKE, *Commissioner.*

Hon. E. W. HUBARD,
House of Representatives.

(Letter 2.)

GENERAL LAND OFFICE, *April* 18, 1844.

SIR: In compliance with your request of this morning, I have the honor

herewith to transmit a statement showing the number of officers comprising a regiment of the United States army of the Revolution. A Virginia regiment consisted of the same number of officers (to wit. 43) as follows: 1 colonel, 1 lieutenant colonel, 1 major, 10 captains, 20 lieutenants, and 10 ensigns.

There does not appear to be any specific number of regiments assigned to the command of a brigadier general. They sometimes had more, and sometimes less. However, this statement, together with the other which I transmitted you on the 15th inst., will, it is hoped, answer your purpose.

From this statement, you will perceive that the aggregate amount is more than that contained in my other statement, and that the average amount is less; but that the proportion or difference between the bounty allowed by the United States to her officers, and that allowed by Virginia to her officers of the same grade, remains about the same as before stated—the former being about one-fourteenth of the latter; or, in other words, Virginia allowed to her officers fourteen times as much as the United States allowed to hers.

The documents you left are herewith returned.

I am, very respectfully, sir, your obedient servant,

THOS. H. BLAKE, *Commissioner.*

Hon. E. W. HUBARD,
House of Representatives.

No. 6.

To the Governor, &c., of Virginia.

The heirs of Captain Dohicky Arundel, of the continental artillery, respectfully pray an allowance of bounty land for his services for the term of during the war.

Captain Arundel entered the service under General Lewis, in the spring of 1776, as captain of artillery, and was killed in the engagement at Gwinn's Island, in July, 1776.

By reference to the enclosed account, (letter A.) it will be seen that on the 8th of May, 1776, he received, by order of General Lewis, sundry articles of clothing for his company.

By reference to the same account, (letter B.) it will be seen that he received sundry articles as captain commander of artillery, May 15, 1776.

By reference to the same account, (letter C.) it will be seen that he received articles, by order of General Lewis, on the 4th of July, 1776.

On the 2d page of the enclosed paper, (letter D.) it will be seen that he received articles from the *regimental store* for his *artillery company*, May 8, 1776.

Same page (letter E) is a copy of his account, taken from the *continental* leger; the same being the aggregate of the foregoing entries, and one or two others of a similar kind, not copied.

The foregoing extracts, it is believed, sufficiently establish the facts, that he was a captain of artillery and in the continental line.

By reference to the 7th vol. of the Virginia Gazette, (found in the library,) it will be seen that Captain Arundel was killed on the 8th day of July, 1776. An account of this battle will be found in the Virginia

Gazette of July 19, 1776, 3d page, in which account the death of Captain Arundel is stated. It will be noticed that General Lewis (by whose orders Captain Arundel had received the articles in the accounts before referred to) commanded the expedition in which Captain Arundel was killed.

Respectfully submitted:

THE HEIRS.

EXECUTIVE DEPARTMENT,
Richmond, July 28, 1842.

I certify that the foregoing is a true copy of a paper filed in my office.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

At a court held for Accomack county, on the 28th day of July, 1823:

On this 28th day of July, 1823, personally appeared in open court, being a court of record (proceeding according to the course of the common law, with a jurisdiction unlimited in point of amount, and keeping a record of their proceedings) for the county of Accomack, aged 69 years, who, being first duly sworn according to law, doth on his oath make the following declaration, in order to obtain the provision made by the acts of the 18th of March, 1818, the 1st day of May, 1820, and the 1st day of March, 1823: That he, *the said* Levin Hyslop, enlisted for the term of three years, in *June*, 1775, and served until the year 1778; that he, the said Levin, enlisted in the State of Virginia, in a company commanded by Captain *John Blair* in the 9th Virginia regiment, commanded by Colonel Thomas Flemming, in the line of the State of Virginia on the continental establishment; that he continued to serve in the corps until the year 1778, as aforesaid, when he was discharged from the said service at the camp at Valley Forge, in the State of Pennsylvania. And I do hereby solemnly swear that I was a resident citizen of the United States on the 18th day of March, 1818, and that I have not, since that time, by gift, sale, or in any manner, disposed of my property, or any part thereof, with an intent thereby to diminish it, as to bring myself within the provisions of an act of Congress entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war," passed on the 18th day of March, 1818: and that I have not, nor has any person in trust for me, any property or securities, contracts or debts due to me, nor have I any income other than what is contained in the schedule hereto annexed and by me subscribed, to wit, "A schedule, &c." The said Levin further states, that he is very unhealthy, feeble, and unable to work but very little, and also infirm, and little blind in one eye; that he has no trade, that he pursues no particular occupation, that his family consist of himself and his wife, that his wife is named Susan, that she is about sixty five years of age and very feeble, and that neither himself nor his wife is able to support themselves, but they are living on the charity of their friend James Hyslop, and that he, the said Levin Hyslop, is in such indigent circumstances as to be unable to support himself without the assistance of his country, or by private charity.

A true copy.—Teste:

THO. R. JOYNES, *C. A. C.*

These certify that John *Blare* entered into the service as a captain in the 9th Virginia regiment, on continental establishment, some time in the year one thousand seven hundred and ninety-six, and that he died in the service in the ensuing year. By me, this 26th of March, A. D. 1798.

JOHN HAYS,
A major in the late continental army, Virginia line.

EXECUTIVE DEPARTMENT, *July* 28, 1842.

I certify that the foregoing is a true transcript from papers filed in the office of the secretary of the Commonwealth of Virginia.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

To his excellency D. Campbell, Governor, &c., of Virginia.

The petition of William Core, Margaret Core, and Edward Core, grandchildren and heirs of Wm. B. Bunting, first an ensign and afterwards a lieutenant of the Virginia continental line, in the revolutionary war.

Your petitioners represent that their grandfather was appointed an ensign in the 9th Virginia regiment, in December, 1775, and a lieutenant in the same regiment in August, 1776, and died in service in 1777 or 1778. These facts are fully proved by the report of the committee of Congress, to whom was referred their petition for seven years' half pay, herewith filed. Congress paid the seven years' half pay, and, as the attorney of the present petitioners, I received it for them last year. The report of the committee, herewith filed, being regarded as containing a full statement of the facts on which your petitioners base their claim for *additional* land bounty, under the rules and principles acted upon by the Executive of Virginia for years past, they have only to add, that in June, 1807, the Executive of Virginia allowed their *mother* (daughter of said W. B. Bunting) 2,666⅔ acres of land *for the war;* and they now claim for additional services beyond six years, to wit, from the 1st of January, 1776, to the 3d of November, 1783, a period of one year and ten months over six years. All which is respectfully submitted.

VESPASIAN ELLIS.
For the petitioners.

May 27, 1839.

EXECUTIVE DEPARTMENT,
Richmond, July 28, 1842.

I certify that the foregoing is a true transcript of a paper filed in my office.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

[See the report of Mr. Craig, from the Committee on Revolutionary Claims, made to the House of Representatives April 21, 1836, to accompany bill No. 582.]

I do certify that Daniel Bedinger, a lieutenant in the late Virginia line of the continental army, entered the service of the United States either in July or August, one thousand seven hundred and seventy-six, and that he continued in actual service until the dismission of the army in South Carolina, in the year one thousand seven hundred and eighty-three.

CHILICOTHE, *November* 8, 1809.

SAM. TINLEY,
Late major in the Virginia line, and commandant of the detachment in which Lieutenant Bedinger served in South Carolina.

It appears by the books in this office that Daniel Bedinger has drawn a warrant for 2,666⅔ acres for his services three years as a lieutenant of the continental line.

LAND OFFICE, *January* 16, 1810, *allowed* 1 *and* 4 *months.*

C. BLAGROVE, *Register.*

EXECUTIVE DEPARTMENT,
Richmond, July 28, 1842.

I certify that the foregoing is a true transcript from papers filed in the office of the Secretary of the Commonwealth.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

I, Almon Dunston, of the county of Gloucester and State of Virginia, do hereby certify that I was well acquainted with Peter Barnard, or Barnett, who resided in that part of this county which is now called Matthews. The said Barnard commanded a company of infantry in the revolutionary war, which company he recruited himself some time in the year 1777. In the spring of the year 1778, he marched with his company (attached to Colonel Brent's regiment, or the 2d regiment of Virginia State troops on continental establishment) to the northern station near Philadelphia, where he remained in active service till late in the winter of 1780-'81, when he returned to Virginia; and I have no recollection of seeing him afterwards. The said Barnard, though a very young man at the time, was highly esteemed as a brave and meritorious officer; and I have no hesitation in saying that he was in service, to my own knowledge, upwards of three years. I enlisted myself, early in the spring of the year 1777, as a soldier in Captain *Meachum* Boswell's company of infantry, and marched with that company, in the spring of 1778, along with Captain Peter Barnard's company and many others, to the northern station, where I remained till the winter 1780 or 1781, when I returned to Gloucester and was discharged, having served out my term of three years, for which I had enlisted. The said Peter Barnard returned with his company from the north at the same time that I did. A short time after my return from the north, I reentered the service as a soldier, and was at York at the surrender of Lord

Cornwallis; very soon after which, I went out to the south, under the command of Captain Ray, and remained there till the end of the war, when I returned to Cumberland court-house, and was there discharged.

As witness my hand and seal this 4th day of November, A. D. one thousand eight hundred and thirty-three.

ALMON DUNSTON. [SEA

GLOUCESTER COUNTY, *to wit:*

This day Almon Dunston, whose name is subscribed to the foregoing affidavit, personally appeared before me, a justice of the peace in and for the said county, and acknowledged the same to be his signature; and I do hereby certify that I have known the said Almon Dunston for many years past, and take pleasure in stating that I believe him to be a worthy and respectable man, of strict honesty and integrity.

As witness my hand and seal this 4th day of November, A. D. one thousand eight hundred and thirty-three.

JOHN F. SCOTT, *J. P.* [SEAL.]

Since signing the above certificate, I have discovered that, in said certificate, I have omitted to state that the said Almon Dunston was duly qualified. I do, therefore, hereby certify that the said Almon Dunston appeared before me, a justice of the peace in and for the county of Gloucester, was duly qualified, and made oath to the truth of the statements made in the foregoing affidavit, to which his signature is attached.

Given from under my hand and seal this 4th day of November, A. D. one thousand eight hundred and thirty-three.

JOHN F. SCOTT, *J. P.* [SEAL.]

I, Isaac Smith, of the county of Matthews, and State of Virginia, do hereby certify that I was very well acquainted with Peter Barnard, of this the county of Matthews, formerly, and in the life-time of the said Barnard, called Gloucester. The said Peter Barnard entered the service of his country in the revolutionary war, as a captain, in the early part of the year 1777: and in the spring of the year 1778, after having gotten his quota of men, having recruited his own company, he marched to the north, where he remained in active service till the spring of the year 1781, when he returned to Virginia: but I do not recollect what regiment he was attached to, nor can I say whether he was on State or continental establishment. I well remember when the said Peter Barnard marched to the north, and when he returned. In the course of the summer of the year 1781, after his return from the north, he entered the militia service, and was stationed with his company at Point Comfort, and from thence went to Hubbard's old-field, near the dividing-lines between Gloucester and King and Queen, where he remained in service in that part of the country till the close of the war; after which he returned home. I mean after the siege of York he returned home; and I do not know of his being in service afterwards. I know that the said Peter Barnard went to the north in the early part of the year 1778; and I also know that he returned but a few months before the siege of York. Whilst the said Peter Barnard was in command of a company, and

stationed at Hubbard's old field, I was myself a sergeant in Captain Dudley Cary's company of cavalry, and stationed in Gloucester—sometimes at Gloucester court-house, sometimes at Seawell's ordinary, and sometimes at Hubbard's old-field. I remained in service (the militia service) till after the siege of York, when I returned home. The said Peter Barnard continued in service, as I did, till after the siege, when he also returned home, and I do not believe he ever went into the service again. The said Peter Barnard died three or four years after the close of the war. I saw him the day he died; was at his house, and left there a few hours before he expired.

As witness my hand and seal this 12th day of November, A. D. one thousand eight hundred and thirty-three.

ISAAC SMITH. [SEAL.]

STATE OF VIRGINIA, *County of Matthews*, } *to wit:*

This day personally appeared before me, a justice of the peace in and for the said county, Isaac Smith, whose name is attached to the foregoing affidavit, and made oath to the truth of the statement contained therein, according to the best of his knowledge and belief; and I do hereby certify that I have known the said Isaac Smith for many years past, and consider him a worthy and respectable man, as I believe he is generally considered by all who know him; and I do further certify that I believe him, the said Isaac Smith, to be a man of strict integrity and veracity, and think that full faith and credit ought to be given to all his statements.

Given from under my hand and seal this 23d day of November, A. D. one thousand eight hundred and thirty-three.

JOHN N. SALE, *J. P.* [SEAL.]

I, John Christian, of the county of Matthews, and State of Virginia, do hereby certify that I was well and intimately acquainted with Peter Barnard of this the county of Matthews, which, in the life time of the said Barnard, was called Gloucester. The said Peter Barnard was a recruiting officer in the revolutionary war, in the early part of the year 1777; and in the spring of the year 1778, after having gotten his company filled up, he marched to the north, where he remained in active service till the spring of the year 1781, when he returned to Virginia; but do not recollect what regiment he was attached to, nor am I entirely certain whether he was a captain or lieutenant when he marched away. I am certain he was a captain when he returned from the north, and was always called Captain Barnard afterwards. I well remember when the said Peter Barnard marched to the north, and when he returned. In the course of the summer of the year 1781, after his return from the north, he entered the militia service, and was stationed at Hubbard's old field, near the dividing line of the counties of Gloucester and King and Queen; at which time I was a soldier in his company. Just before the siege of York, I was taken sick, obtained a furlough, and came home. When I left the company, I left Captain Barnard in command of it; and believe he continued to command it till after the siege; after which he came home, and I do not know that he ever

went into the service again. I was in service in Captain Barnard's company at Point Comfort before we went to Hubbard's old-field. I think we removed from Point Comfort to Hubbard's old-field about the month of August, 1781. The said Peter Barnard died three or four years after the close of the war. I have a perfect recollection of the circumstance of his death; for I lived with him at the time, assisted in carrying him to his grave, and helped to bury him.

As witness my hand and seal this 12th day of November, A. D. one thousand eight hundred and thirty-three.

JOHN CHRIST*EN*. [SEAL.]

STATE OF VIRGINIA, }
County of Matthews, } *to wit:*

This day personally appeared before me, a justice of the peace in and for the said county, John Christian, whose name is attached to the foregoing affidavit, and made oath to the truth of the statement contained therein, according to the best of his knowledge and belief; and I do hereby certify that I have known the said John Christian for many years past, and consider him a worthy and respectable man, as I believe he is generally considered by all who know him; and I do further certify that I believe him, the said John Christian, to be a man of strict integrity and veracity, and think that full faith and credit ought to be given to all his statements.

Given from under my hand and seal, this, the 24th day of November, one thousand eight hundred and thirty-three.

ROBERT BILLUPS, *J. P.* [SEAL.]

—

Captain Peter Bernard, 2d Virginia State regiment.

1779.	DR.	
July 29.	To 2 blankets, (page 35) - - - -	£3 19*s.*
1779.	CR.	
August.	By cash in full, (page 37) - - - -	£3 19*s.*

Extract from J. Moss's leger, No. 17, (page 42.)

JAMES E. HEATH, *Auditor.*

—

The Commonwealth of Virginia in account with Lawrence Smith, jr.

1778.	DR.	
Jan. 17.	To Capt. Peter Bernard, paid up to 15th this month	£157 5*s.* 6*d.*
March 16.	To Capt. Peter Bernard, pay-roll to March 15 -	161 5 8

Extract from Lawrence Smith, jr.'s, account as paymaster.

JAMES E. HEATH, *Auditor.*

In the case of Capt. Peter Bernard, of the continental line.—See Journals of the Council of the 10th of August, 1776, or before that date.

This is to certify, that it appears from a list in this office of such officers and soldiers of the Virginia continental line, during the revolutionary war, as settled their accounts and received certificates for the balance of their full pay, according to an act of Assembly passed the November session of 1781, that a certificate, issued on the 5th day of September, 1783, in the name of Peter Bernard, as a captain of infantry, for £301 11*s.* 5*d.*, which certificate appears to have been delivered to John Lyne, and was given for services prior to the 1st of January, 1782, to wit: "Pay as captain from 1st January, 1777, to 1st September, 1779."

NO SEAL OF OFFICE. Given under my hand at the Auditor's office, Richmond, this 3d day of December, one thousand eight hundred and thirty-three.

JAMES E. HEATH, *Auditor.*

EXECUTIVE DEPARTMENT,
Richmond, July 29, 1842.

I certify that the foregoing copies, comprised in two sheets, are transcripts of papers filed in my office.

WM. H. RICHARDSON.
Secretary of the Commonwealth.

To the honorable the Executive of Virginia.

By the accompanying power of attorney, it will be seen that Christopher Moon, the only heir of Lieutenant Jacob Moon, of the revolutionary war, has empowered the undersigned to present his claim for additional land bounty for the services of his ancestor. The undersigned begs leave respectfully to state, that, by the vouchers filed in the Executive Department, it will be seen that Jacob Moon was a lieutenant in the continental line of Virginia, and that he was killed in battle at Guilford. The affidavit of Samuel Arnold, who was himself an officer, says that "Jacob Moon was a lieutenant in the army: that he *entered into the service in the year* 1776, and continued in service until the battle of Guilford, when he was killed by the enemy in action."

The undersigned begs leave *most respectfully* to suggest whether, as the certificate is not *precise* as to *that period* in 1776 *at which* Lieutenant Jacob Moon entered the *the* service, it may not be *equitably concluded* that his service should be reckoned from the 1*st day of July*, 1776, that being the *middle* of that year. The undersigned has *ventured*, most respectfully, to say thus much, (well knowing that whatever is just and proper in the premises will be done,) from a belief that if the real time of Moon's entering the army could be ascertained, it would be found to have taken place at an *earlier* period than that suggested.

He begs leave, in conclusion, to ask that addition[al] land bounty *bounty* may be allowed from the 1st of July, 1776, to the end of the war.

With great consideration and respect, &c.,

JNO. G. MOSBY,
Attorney for Jacob Moon's heir.

APRIL 4, 1838.

I do hereby certify that Jacob Moon was a lieutenant in the army of the United States on continental establishment. He entered into the service in the year 1776, and continued in service until the battle of Guilford, when he was killed by the enemy in action.

Given under my hand this 25th day of October, 1808.

SAMUEL ARNOLD,
2d Lieutenant 5th Virginia regiment.

Witnesses:

EDWARD ADAMS.
ELIJAH FOLKES.

CHARLES CITY COUNTY, *to wit:*

This day personally came Samuel Arnold, who is a man of credibility, before me, a justice of the peace for the aforesaid county, and made acknowledgment to the foregoing certificate and the signature thereto.

Given under my hand this 26th day of October, 1808.

J. EPPES, *J. P.*

EXECUTIVE DEPARTMENT,
Richmond, July 25, 1842.

The preceding are true copies of papers filed in this department.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

I do hereby certify that Major Edmund Dickerson, late in the Virginia continental line, was killed in the action of Monmouth on the 28th day of June, 1778, in the exercise of his office as major to the first *of the first* Virginia regiment.

Given under my hand this 27th day of March, 1783.

JNO. GIBSON, *Colonel.*

EXECUTIVE DEPARTMENT,
Richmond, July 29, 1842.

I certify that the foregoing is a true copy of a paper filed in my office.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

(A No. 2.)

PETITION FOR BOUNTY LAND.

The heirs of Lieutenant Joseph Holliday, C. L.

This officer settled his accounts with State auditors, for a service from January 1, 1777, to July 23d, following. (See settlements of continental officers, on file in the 1st auditor's office.)

Three respectable witnesses, to wit: William Mitchell, Francis Turnley, and John Pierce, prove the service of Lieutenant Holliday to the end of the war.

I report this claim good for a service as lieutenant for the war.

Respectfully submitted:

JOHN H. SMITH, *Commissioner.*

To Governor TAZEWELL.
JUNE 10, 1834.

SPOTSYLVANIA COUNTY, *to wit:*

John Stears, a soldier of the revolutionary war, and a prisoner of the United States, in the eighteenth year of his age, this day personally appeared before me, a justice of the peace for the county aforesaid, and made oath that he was well acquainted with Joseph Holladay, of Spotsylvania county, who was a lieutenant in the Virginia line on continental establishment, during the revolutionary war. The deponent further states, that he was not quite 21 years of age when he wished to enter the service, and had to obtain the consent of his father before his enlistment; that he enlisted in Captain Oliver Towles's company, under Lieutenant Joseph Holladay, in the month of January, 1776; and that, to the personal knowledge of this deponent, the said Lieutenant Joseph Holladay continued in the army and in service until the fall of the year 1781, when he obtained a furlough at the siege of York, in consequence of sickness; that this deponent was at York, and under Lieutenant Holladay's command, when he obtained said furlough.

JOHN STEARS.

SPOTSYLVANIA COUNTY, *to wit:*

I, Oscar M. Crutchfield, a justice of the peace in and for the county aforesaid, do hereby certify that John Stears this day, before me, subscribed and made oath to the above deposition. And I further certify, that, from my personal knowledge of, and acquaintance with the said Stears, his evidence is entitled to full and entire credit.

Given under my hand and seal, this 7th day of April, 1835.

O. M. CRUTCHFIELD. [SEAL.]

VIRGINIA—*Spotsylvania county, to wit:*

I, Therit Towles, clerk *pro tempore* of Spotsylvania county court, do hereby certify that Oscar M. Crutchfield, esq., who signed the foregoing certificate, is now, and was at the time of signing the same, a magistrate in the said county duly commissioned and sworn, and that full faith and credit are due to all his acts and deeds as such.

In testimony whereof, I have hereunto set my hand, and caused the seal of my office to be hereunto affixed, this 8th day of April, in the year [SEAL.] 1835, and of our independence the 59th.

THERIT TOWLES, *Clerk pro tempore.*

EXECUTIVE DEPARTMENT,
Richmond, August 2, 1842.

I certify that the foregoing are true copies of papers filed in my office.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

I, Henry Bedinger, of the county of Berkeley, and State of Virginia, aged eighty-five years on the 16th inst., do certify and declare that William Kelly and myself both entered Captain Hugh Stephenson's company of volunteer riflemen in the month of June, 1775; that we were both appointed sergeants before we left Shepherdstown, the recruiting rendezvous

of said company; that said company was raised for one year; that said William Kelley and this declarant marched in the same company to the siege of Boston, and both continued as non-commissioned officers until the company was discharged; that at or before the disbandment of said volunteer rifle company, Captain Hugh Stephenson was appointed a colonel to raise a rifle regiment; that Abraham Shepherd was appointed captain, and Samuel Friely, William Kelly, and myself were commissioned as lieutenants on the 9th day of July, 1776, in said company and regiment; that so soon as the company was completed, it marched to Bergen, the appointed rendezvous of the said rifle regiment; that about the time (say in August, 1776) of our leaving Shepherdstown, Colonel Hugh Stephenson died, and Lieutenant Colonel Moses Rawlings assumed the command of said regiment; that when said regiment was completely organized, it was ordered up to the defence of Fort Washington, from Bergen; that on the 16th day of November, 1776, the British forces under the command of General Home compelled the garrison to surrender prisoners of war, including the said rifle regiment; that a few days previous to the surrender, Lieutenant William Kelly had been ordered with a party to Dobb's ferry, and escaped being captured; that said William Kelly having no command, perhaps in the spring of 1777 returned to Virginia.

I was detained prisoner of war four years, wanting sixteen days. *It was reported to me* after my exchange, that William Kelly was appointed captain in Colonel Hartley's regiment of Pennsylvania, and that he died in 1777 or 1778. I never saw Lieutenant William Kelly after my being made prisoner, nor had I any communication with or from him; and further this deponent saith not.

HENRY BEDINGER,
Captain 5th Va. regt. revolutionary army.

STATE OF VIRGINIA, *Berkeley county:*

Personally appeared before me, the subscriber, a justice of the peace in and for said county, Major Henry Bedinger, and, being duly sworn according to law, made oath to the truth of the statement within subscribed by him.

Sworn before me, this twenty-second day of October, 1838.

TILLOTSON FRYATT.

Extract of a paper headed, "A list of the officers in Colonel Hartley's battalion in the service of the United States of America," and bound in a volume of the Washington Papers, filed in the Department of State, marked "Arrangement of officers, &c."—"William Kelley, *Captain*."

Extract of another paper, headed "Promotions exclusive of the majority to take place as follows, in Colonel Hartley's regiment," and bound in the same volume:

"Lieutenant Paul Parker to be a captain in the room of Captain Kelly, deceased the 9th of September, 1777.

A. VAIL,
Acting Secretary of State.

DEPARTMENT OF STATE, *October* 22, 1838.

Extract of a paper headed, "A return of the officers, rank, dates of present and former commissions in the 11th Virginia continental regiment, commanded by Colonel Daniel Morgan," and bound in a volume of the Washington Papers, filed in the Department of State, marked

Arrangement of officers, &c.

Name.	Rank.	Date of former commission.	Promotions.	Dates of present commissions.	Casualties.
—— Kelly,	2d Lieut.	– –	To a captain 6th February, 1777.	– –	In another reg.

A. VAIL,
Acting Secretary of State.

DEPARTMENT OF STATE, *October* 22, 1838.

EXECUTIVE DEPARTMENT, *Richmond, August* 2, 1842.

I certify that the foregoing are true copies of papers filed in my office.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

No. 7.

To show the loose and irregular proceeding of those boards of officers charged with ascertaining what was the actual condition of officers toward the close of the war, the case of Major Alexander Dick furnishes a striking instance.

Alexander Dick was, early in the war, commissioned a captain in the continental line of the army. Some time in 1779 he was captured, sent to England, and lodged in Fortune jail. Some time in the year 1780 he made his escape from jail, and after various perils he reached the United States. During his absence, he became entitled, by promotion, to a majority in the continental line; but, as there was then no command for him in the northern army, he went to the south, on the earnest recommendation of the Virginia Assembly, addressed to General Green, to give Major Dick service in the continental army under his command. As, however, General Green could give him no employment, Major Dick returned to Virginia a supernumerary, in 1781, a short time previous to the invasion of that State by Cornwallis. He took the field as a supernumerary major, and was in active command up to the surrender of Yorktown; after which, the men under his command were discharged, and Major Dick was not again called into service. Such was the true condition of Alexander Dick; yet, without having ever been commissioned an officer in the Virginia State line, he was detailed as one of a board of State line officers, to arrange the officers of that line; by which arrangement, Alexander Dick was returned as a major in the Virginia State line, and in service at the end of the war. By this erro-

neous return, Alexander Dick was allowed land bounty, as a major in the Virginia State line, and he has been, on the faith of that return, disallowed United States land bounty and commutation. If, then, a board of officers could be palpably in error as to the true character of its own members, what must have been the errors as to officers not present? (See the proceedings of a board of officers of the Virginia State line, which met at Richmond, 6th of February, and 14th of April, 1782.)

(No. 1.)—*Captain Thomas Triplett.*

There were four persons of this name, viz: Captain Thomas Triplett, who served to the end of the war, and afterwards removed to South Carolina. His representatives, on the 14th of October, 1817, received the land for seven years' service. The records of the Virginia land office show that they were *then* residents of *South Carolina*. *They are now entitled to commutation*, but have never asked it,

The second Thomas Triplett was from Fairfax. He entered the service in 1775, and either resigned or returned home on furlough in very bad health, and died in 1780. He was the brother-in-law of General John Chapman Hunter, now of Fairfax.

The third Thomas Triplett lived in Kentucky, and had been in his *dotage* many years before the pension was obtained in his name—not only in his dotage, but entirely without intellect. His son was the fourth of the name; he was the *felon*, who used the evidences of the services of the true man, and, using his father's name, appropriated them accordingly; and thus imposed on the Government at Washington. The services had been rendered by *one* of the name, and the commutation *was due;* it was paid to the wrong person. If the heirs of the real Captain Triplett shall ever present their claim, the proof will doubtless be readily furnished. Here was no fraud on behalf of the *officer* or *his heirs;* but by a drunken man, without principle, using the name of his father, *who was never one hour in service.*

(No. 2.)—*Captain Robert Beall.*

There were *two* of this name. On the 9th of December, 1784, the commutation was paid to one: he was in service 25th of *March*, 1783, when he received his warrant (No. 198, for 4,666⅔ acres) for services from 10th of *February*, 1776. He was in the 3d Virginia continental regiment, and drew his land on the certificate of Colonel John Gibson, dated 25th of March, 1783. This same Colonel John Gibson, on the 17th of June, 1783, (not three months after,) certified that the other Captain Robert Beall entered the service also in 1776, and continued in service till 1781, "when he *became a supernumerary;*" and he drew warrant No. 853, for 4,000 acres.

One Captain Robert *Bell* is said to have resigned. But the positive certificates of Colonel John Gibson, of the 25th of March and 17th of June, 1783, that one of these officers was then in actual service, and that the other was then *supernumerary*, would justify the belief, either that the *roll* was itself *erroneous*, or had reference to some third individual

That the roll or return was erroneous in other respects, and in other cases, will be clearly shown hereafter. Colonel James Wood, in 1803, and in 1808, when additional bounty was allowed, corroborates the two certificates of Colonel Gibson, and speaks of both as good officers. Not only is the co-temporaneous evidence in *June*, 1783, of Colonel Gibson, that the other Robert Beall was a *supernumerary* in 1781, almost conclusive, but the fact of Captain Beall's drawing his warrant *under that certificate* is an *endorsement* of its *truth* by him; the contrary of which, if not true, he must necessarily have known. To suppose he was not a *supernumerary*, we must put more reliance on the list referred to, (which will hereafter be shown to be incorrect in *other cases*.) than on the positive testimony of two high officers and gentlemen at the date of the transaction. This list was made from the best evidence before the board, but *imperfect* evidence nevertheless, and was erroneous in many cases. The *memoranda* on the previous rolls were made long *after* those rolls, and were probably made by the clerk or other officer having charge of them—in some instances from the hearsay of transient officers, who, being aware that certain officers were no longer in *actual* service, may have heard or supposed they had resigned, and, from the repetition of the rumor or averment, the annotations were made by the clerk having charge of the rolls. That they were often erroneous, is clearly shown.

(No. 3.)—*Lieutenant John McDowell.*

On the 14th of June, 1783, he received his land bounty from Virginia for three years' services. The records, and the oral testimony in his case, show conclusively he was entitled to it. Virginia did not grant an acre of land to which he was not entitled.

(No. 4.)—*Ensign John Spitfathom.*

From the testimony on which he received his Virginia land, it appears he was in service at the battle of Great Bridge, December 12, 1775, and continued in *active service in the several northern campaigns*, until 17th December, 1780, when he was appointed an ensign; and the records show him to have continued in active service till after the arrangement of 1781. Two of the witnesses say he continued in service to the end of the war. The list dated 2d September, 1782, contains his name among the *resigned* officers. If he resigned, he was entitled only to 2,666⅔ acres, having served for about six years; he was allowed 518 acres over that quantity.

Let it be borne in mind, these rolls showing the different arrangements of the officers were *lost* or *mislaid* in 1785, and were found by Judge Cabell on 2d of October, 1829; during that interval of forty-four years, it is believed no human eye ever saw them. They were before the Legislature in 1785, when the claims of the supernumerary officers were argued at great length. Captain Edmund Read was a member of the House, and doubtless put these by mistake among his private papers. He died not long after; and Judge Cabell, his executor, in 1829, when examining his papers, found these rolls, which he immediately deposited among the public archives of the State.

Thus, if it be true that some allowances have been made for more than would appear by these rolls to have been due, Virginia is not *in fault* if the

other testimony in the absence of this were satisfactory, as was most conclusively the case in Spitfathom's claim.

(No. 5.)—*Captain William Vause.*

After serving nearly all the war, he was superseded at Cumberland for absence. In 1783 he was unanimously reinstated; he having shown that he was in the western country at the time, and could not possibly have heard of the order convening the board. Colonel James Wood says he was president of the board which unanimously reinstated Captain V.

(No. 6.)—*Lieutenant Thomas Wallace.*

He was in service over three years, whether he resigned or not. This made the allowance by Virginia unquestionably correct. If he resigned before the end of the war, he is entitled to nothing more.

(No. 7.)—*Captain James Craine.*

It was thought that his having received depreciation pay to 31st December, 1781, was *prima facie* evidence that his time ended then. No depreciation was paid *after that time*, because there was *no depreciation* after *that date*. To receive *to that date*, is conclusive of service for that period; but as no payments in depreciated currency were made afterward, no inference can possibly be fairly drawn that an officer resigned *then, because* his settlement for *depreciation* ended then. And this is again conclusive that the word "resigned," opposite Captain C.'s name on the arrangement of February, 1781, must necessarily have been *written after* the year 1781; which is remarked, in order to show that these annotations or notes have not the authority of the board even, but were made according to the information collected by the keeper of the returns. If Captain C. resigned, the Executive of Virginia had no evidence of the fact, and was obliged to act as it did, upon the evidence presented; which is admitted to be very strong, and is probably entitled to more weight than the evidence of resignation.

(No. 8.)—*Lieutenant John Townes.*

On 28th November, 1783, he received for three years' service. Mr. Hagner certifies that his accounts were settled up to 12th March, 1782. His commission in the 6th regiment, at Chesterfield arrangement, is stated to have borne date 1st July, 1777. Here, then, is positive proof, of record, that he was *entitled to all the land which Virginia gave him.*

Here, again, it is to be remarked, that it is manifest the word "*cashiered*" was not written opposite his name by *proper authority*, as the subsequent records show that *he had not been cashiered.*

(No. 9.)—*Captain Charles Snead*

Is said to have been superseded 2d September, 1782—probably for *non-attendance.* He is said to have been a good officer, of great pride and high character; and his having been superseded (overslaughed) would not deprive him of his *rights*, unless he claimed the bounty under the act of 1782.

His claim under the *previous* laws was good, unless he had, by misconduct, forfeited his rights. This act of 1782 gave the bounty to certain officers, (not before entitled,) on condition that they had not been superseded; but if the claims were not made under this law, no such condition attached. Arbitrary superseding, (without just cause,) so far as is known, could not deprive an officer of his rights; and upon the conviction of the propriety of this position, all the *discriminated* officers (who were not tried by court martial) have been, on solemn argument, paid their half pay, after taking counsel from some of the ablest men in the country.

If Captain Snead was superseded, it may have been for the same reason that Captain Vause was; and the reproach, if it were one, may have been removed in the same manner; although we see no evidence on the subject, as there would have been none in Captain Vause's case, but for the certificate of Colonel Wood—that is, if Vause had not applied very early for his land bounty, this return of the board could not have been satisfactorily explained. Captain Snead was entitled to the Virginia land, whether he was superseded or not, unless he left the service.

(No. 10.)—*Lieutenant John Barns.*

The records show him to have been more than three years in service. (See Smith's report, No. 2, page 3.) If the return of 2d September, 1782, be correct in regard to him, nothing was due him.

(No. 11.)—*Captain Nathan Lamme.*

January 17, 1786, he received land for three years' services; his commission was dated September 10, 1778, and it is conceded he resigned after May, 1782. Virginia did right in granting the land.

Here, again, it is seen the word "superseded" opposite his name, as the arrangement of 1781, was made *without authority*, for the return of September, 1782, states that he had *resigned*. These repeated errors show that but little confidence can be placed in those arrangements, as they are so frequently *inconsistent* with each other.

(No. 12.)—*Lieutenant Robert Jouett.*

He was manifestly, by the records quoted, more than three years in service, prior to his alleged *resignation*, (September, 1782,) and Virginia unquestionably did right in granting the land. It appears his accounts were settled to May 10, 1782. It is not very probable an officer would have resigned after that period; yet it may have been true. This same list enumerates Lieutenant William McGuire among the resigned officers, whereas the proof in his case is *conclusive* that he served to the end of the war. So with Captain Francis Minnis on the same list.

(No. 13.)—*Ensign Thornton Taylor*

Was a supernumerary of 1778, and is admitted to have been entitled to land. All those supernumeraries were also entitled to half pay.

(No. 14.)—*Lieutenant James Barnett.*

See remarks in the preceding case, which apply to this.

(No. 15.)—*Captain Thomas Blackwell.*

See remarks on Thornton Taylor's case.

(No. 16.)—*Captain John Thomas.*

See Smith's report, December 10, 1835, p. 112. He was in service as a sergeant early in 1776, and, after serving more than three years at the north, was appointed a captain in the regiment of guards, and became supernumerary with the rest of the officers of that regiment.

(No. 17.)—*Ensign James Broadus.*

19th February, 1784, three months and four days after the war ended, he received his land bounty. He was manifestly entitled to it.

(No. 18.)—*Captain Samuel Jones.*

On 19th December, 1782, before the war was ended, and before any cession to Congress, he received his bounty land.

(No. 19.)—*Lieutenant Simon Summers.*

16th December, 1784, he received land as lieutenant for three years' service. 1st March, 1817, he received for the seventh year's service. The records show he was a lieutenant as well as *adjutant*, which appears to have been overlooked. The settlement to 10*th February*, 1781, no more shows his *resignation*, than that Captain Vause's settlement to 10th February, 1781, showed his.

It may be remarked, that about that time most of the officers became supernumerary, and payments ceased to them; and, of course, there was no depreciation to make good. Again, it often happened that officers drew nothing after the money became so much depreciated; those that *could* do it, preferred to wait; the consequence was, that after the 1st January, 1782, when the pay became good, they drew, in *good* money, the arrears; and, in the *depreciation account*, they would settle up to the period when they *last received* depreciated money.

(Nos. 20, 21, and 22.)—*Captains John Winston, Turpley White, and John Marks.*

20th April, 1783, John Winston received for three years; Captain White on 15th July, 1783; and Captain Marks on 31 September, 1782.

The periods at which they received their lands show they were entitled. The other public records also show it. They were doubtless supernumeraries; but whether so, or not, Virginia granted the lands properly.

(No. 23.)—*Captain Philip Slaughter.*

It is shown that he entered the service at the commencement of the war,

and was in active service in all the arduous campaigns of 1776, 77, '78, and '79.

Subsequently, in 1779 or '80, he authorized his friend, the late Chief Justice, to hand in his resignation if he should be called into service again; but not being called on, he says (and Judge Marshall was satisfied of the fact) that the resignation was not handed in.

At a subsequent period, Captain Slaughter swears that General Muhlenberg returned to him his commission, (which he had sent to the General with his intention to resign,) and stated that he could not think of accepting it. If General Muhlenberg kept a *diary*, this statement of Captain S. might be proved by it. An intention to resign is nothing. Did he *actually resign*, and was the *resignation accepted?* This is the only question. Captain S. stands as high *as any man* for honor and integrity; he says he *offered* to resign, and for two or three months thought his resignation had been accepted, when he received it back from his commanding officer, who *declined to accept* it, and urged it upon him to hold it. He did hold it, and in proof *exhibits* the commission as having been in his possession ever since. His intention to resign at one time, does not affect his *legal* rights; and the campaigns through which he *actually served* should settle any question about *equity*.

(No. 24.)—*Lieutenant Wm. Madison.*

It appears by the affidavits of General Madison, the petitioner, and of George Corbin, and other evidence, that the court of Madison county *was satisfied* that Lieutenant Madison was appointed a *lieutenant* in Harrison's artillery in 1781, and never resigned. The court knew the parties, and, knowing them, was satisfied of the truth of the statement. The affidavit of Corbin, an unimpeached witness, is positive as to the fact of Madison being an officer in that regiment. The affidavit of General Madison, a man of the highest character, taken in connexion with the other evidence, satisfied the Executive of Virginia that he had been, first, a lieutenant of Harrison's artillery, and, secondly, that he never resigned his commission. Whether he was in *active service* two months or more, *is immaterial;* if he held his commission, he was *entitled* to the bounty; if he held his "*appointment*," it was the same thing. Hundreds of officers never received their "commissions" *at all*. The journals of Congress are filled with cases of commissions being issued to *take date years* before they were issued, viz: from the time of the *appointment;* which often took place just *before*, or *during*, or immediately *after action*, and in face of the enemy. If it be conceded that Madison had the appointment for any time, no matter how short, then he is entitled to the land, &c., unless he gave it up.

His having been but a short time in service may answer very well to create a *prejudice* against him, but does not touch his *legal rights*.

It may be repeated: the only questions in the case are, first, did he ever hold the appointment of lieutenant in Harrison's artillery? And if so, secondly, did he ever resign it?

If he held that appointment, no matter for how short a time, and did not resign it, he was *entitled* to the land bounty. And if he had the *legal* right, the *Government* should not withhold it for any supposed want of meritorious service.

Judge Brooke says, General Madison wished to bring forward his claim

at an earlier day—in the lifetime of his brother, the late President; but was dissuaded by the latter. This shows *he* must have considered himself entitled, and that the presentation of the claim was not the result of any *recent* thought or determination.

—

In regard to the allegation that $500,000 was accepted by Virginia in full for expenses incurred in the Illinois campaigns; that, nor any other sum paid to Virginia, did by possibility include the half pay claimed by the officers who served in the Illinois expedition from Virginia, because Virginia then did not consider herself bound for the claim, and in the deed of cession does not appear even to have contemplated such cases; all her other corps were especially provided for in that deed. But the courts decided that Virginia was bound to pay these claims; and as no charge on that account had ever been made against the United States, and as Virginia had not voluntarily paid them, Congress made provision for them by an act passed 1832.

It is manifest that the $500,000 spoken of by Knox must have been estimated on the amount either actually paid by Virginia at the time of settlement, or known to be due on acknowledged engagements, and could not include claims then and for many years thereafter resisted by Virginia. The United States, therefore, can no more avail themselves of that settlement, or agreement to bar the claim, than they could of the limitation acts of 1792, 1793, and 1794. If the determination not to pay wants an excuse, why not appeal to these acts of limitation? To avail of a settlement, when it is known these claims were not even contemplated in the adjustment, would surely be as inequitable as a resort to the act of limitation.

—

By a resolution of Congress, (see journals, 27th of May, 1778, vol. 2, page 567,) the regiments were to have officers, as follows, viz:

Infantry, thirty-two commissioned officers; three staff officers to be taken from the supernumeraries.

Artillery, seventy seven commissioned officers, (see page 568.)

On the 18th of May, 1776, two subalterns and forty privates were added to the artillery regiments.

On the 3d of October, 1780, (vol. 3, page 532,) the artillery regiments were reduced to nine companies, but with the same number of commissioned officers as at present.

By the resolution of Congress, 21st of October, 1780, (page 568,) the infantry regiments were to have thirty six commissioned officers and four supernumerary subalterns, to recruit, &c., &c.

The regiments of artillery were to be augmented to ten companies, thus making room for the officers as at first constituted; or possibly it required new officers for the new company, which gave occasion for the appointment of Lieutenants Ed. Brooke, Ph. Lightfoot, and Wm. Madison, in 1781.

By a resolution of Congress, 7th of August, 1782, a reduction of the army was ordered, and a list of the officers retained to be returned to the War Office. No list of the deranged officers was required to be returned; they were to be considered as retiring, entitled to all the emoluments to which the officers were entitled, who retired under the resolution of the 21st of October, 1780.

By a resolution of Congress of the 31st of December, 1781, the officers not belonging to the line of any particular State, and not returned as in service on the 1st of January, 1782, were to be considered as retiring, and entitled to the benefit of the resolution of the 21st of October, 1780.

By a resolution of the 23d of April, 1782, (the 5th resolution,) the number of lieutenants to a regiment was reduced to ten. The junior lieutenants to retire, entitled to the benefit of the resolution of the 21st of October, 1780.

Seeing that no officer was allowed commutation under the regulations of the War Department, except such as by the muster-rolls was in actual service on the 3d of November, 1783, or who was returned supernumerary, it must be evident that many supernumerary and retiring officers entitled to that, did not receive it; and nearly all the existing claims are of that class.

The Commonwealth of Virginia to Francis Taylor, esq., greeting:

Know you, that, from the special trust and confidence which is reposed in your patriotism, fidelity, courage, and good conduct, you are, by these presents, constituted and appointed colonel of the regiment of volunteers for guarding the convention troops at Charlottesville. You are therefore carefully and diligently to discharge the duty of colonel of the said regiment, by doing and performing all manner of things thereunto belonging; and you are to pay a ready obedience to all orders and instructions which from time to time you may receive from the Governor or Executive power of this State for the time being, or any of your superior officers, agreeable to the rules and regulations of the convention or General Assembly. All officers and soldiers under your command are hereby strictly charged and required to be obedient to your orders, and to aid you in the execution of this commission, according to the intent and purport thereof.

Witness, Patrick Henry, esq., Governor or Chief Magistrate of the Commonwealth, at Williamsburg, this 5th day of March, in the third year of the Commonwealth, A. D. 1779.

P. HENRY.

I do hereby certify, that William Vause was appointed a captain in the twelfth Virginia regiment in the beginning of the year 1777, and continued to act as such until the arrangement at Cumberland old court-house, when he was superseded, as an absentee; that, in the spring of the year 1783, General Muhlenberg appointed a board of officers (of which I was president) to inquire into the circumstances of Captain Vause's case; he appeared, and made satisfactory proof to the board that he was in the western country, and could not possibly have had notice of the meeting

ordered at Cumberland court-house; in consequence of which, the board were unanimously of opinion that he ought to be reinstated.

Given under my hand, this 25th day of November, 1784.

JAMES WOOD,
late Brigadier General.

EXECUTIVE DEPARTMENT,
Richmond, February 24, 1840.

The above is a true copy of a paper filed in this department,

WM. H. RICHARDSON,
Secretary of the Commonwealth.

DEPARTMENT OF WAR,
Bounty Land Office, March 12, 1840.

SIR: Pursuant to the request contained in yours of the 7th instant, I have the honor to send you the subjoined statement, taken from the books of this office, showing the number of land warrants of the *revolutionary class* which have issued from the 30th September, 1828, to the 1st January, 1840, inclusive; designating therein the rank of the officers, and the number of warrants issued in each year.

RANK AND GRADE	For the year ending September 30, 1829.	For the year ending September 30, 1830.	For the year ending September 30, 1831.	For the year ending September 30, 1832.	For the year ending September 30, 1833.	For the year ending September 30, 1834.	For the year ending September 30, 1835.	For the year ending September 30, 1836.	For the year ending September 30, 1837.	For the year ending September 30, 1838.	For the year ending September 30, 1839.	From 1st October, 1839, to 1st January, 1840.	Aggregate of warrants issued from October 1st, 1828, to January 1st, 1840
Colonels	–	2	–	1	–	2	–	–	–	1	–	–	6
Lieutenant colonels	1	–	1	2	1	2	–	1	–	1	1	1	11
Majors	1	1	1	5	1	1	–	1	–	–	–	–	11
Captains	8	6	8	19	6	6	3	7	3	8	5	–	79
Lieutenants	15	11	16	14	13	11	5	7	–	12	7	1	112
Ensigns and cornets	2	3	2	3	2	3	1	–	1	1	2	1	21
Physicians and surgeons	–	–	2	1	–	4	–	–	2	–	2	–	11
Surgeon's mates	–	3	–	–	1	1	–	1	–	–	1	–	7
Deputy purveyors	–	–	–	–	–	–	–	1	–	–	–	–	1
Assistant apothecary	–	–	–	–	–	–	–	–	–	1	–	–	1
Rank and file	149	93	68	57	70	67	46	21	19	25	16	6	634
Aggregate of each year	173	119	98	102	94	97	55	39	25	49	34	9	894

Very respectfully, your obedient servant,

WILLIAM GORDON.

Hon. JOHN TALIAFERRO,
House of Representatives.

DEPARTMENT OF WAR,
Bounty Land Office, February 25, 1840.

SIR: Agreeably to your request, I have now the honor to send you the subjoined list, showing the number of officers, non-commissioned officers, and soldiers of the several continental lines and corps of the revolutionary army, whose claims to bounty lands, due on the part of the United States, are, at *this date, unsatisfied.* This list is taken from one which was carefully prepared in this department in 1828, and is comprised in Senate document No. 42, 20th Congress, 1st session.

Names of States and corps.	No. of officers.	No. of non-commissioned officers and soldiers.
New Hampshire	3	50
Massachusetts	22	286
Connecticut	4	126
Rhode Island	–	48
New York	2	46
New Jersey	2	113
Pennsylvania	33	387
Delaware	–	64
Maryland	12	213
Virginia	15	203
North Carolina	5	64
South Carolina	22	
Georgia	15	
Artillery artificers, &c.	–	25
Armand's legion	–	181
Hazen's regiment	–	134
Von Herr's dragoons	–	11
Invalid regiment	–	101
Foreign officers	18	
Warrants on file, not delivered	8	30
	161	2,091

Aggregate of officers, non-commissioned officers, and soldiers - 2,252

Very respectfully, your obedient servant,

WM. GORDON.

Hon. JOHN TALIAFERRO,
House of Representatives.

No. 8.

Copy of the deed of cession from Virginia to the United States, executed March 1, 1784.

To all who shall see these presents:

We, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, the underwritten delegates for the Commonwealth of Virginia, in the Congress of the United States of America, send greeting:

Whereas the General Assembly of the Commonwealth of Virginia, at their sessions begun on the twentieth day of October, one thousand seven hundred and eighty three, passed an act, entitled "An act to authorize the delegates of this State, in Congress, to convey to the United States in Congress assembled all the right of this Commonwealth to the territory northwestward of the river Ohio," in these words following, to wit:

"Whereas the Congress of the United States did, by their act of the sixth day of September, in the year one thousand seven hundred and eighty, recommend to the several States in the Union having claims to waste and unappropriated lands in the western country, a liberal cession to the United States of a portion of their respective claims, for the common benefit of the Union: And whereas this Commonwealth did, on the second day of January, in the year one thousand seven hundred and eighty-one, yield to the Congress of the United States, for the benefit of the said States, all right, title, and claim which the said Commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the said act of cession: And whereas the United States in Congress assembled have, by their act of the thirteenth of September last, stipulated the terms on which they agree to accept the cession of this State, should the Legislature approve thereof; which terms, although they do not come fully up to the propositions of this Commonwealth, are conceived, on the whole, to approach so nearly to them as to induce this State to accept thereof, in full confidence that Congress will, in justice to this State for the liberal cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory the propriety of making cessions equally liberal, for the common benefit and support of the Union:

"*Be it enacted by the General Assembly*, That it shall and may be lawful for the delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said delegates, or such of them so assembled, are hereby fully authorized and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, subject to the terms and conditions contained in the before recited act of Congress of the thirteenth day of September last; that is to say, upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so formed shall be distinct republican States, and admitted members of the Federal Union, having the same rights of sover-

eignty, freedom, and independence as the other States. That the necessary and reasonable expenses incurred by this State in subduing any British posts, or in maintaining forts or garrisons within and for the defence, or in acquiring any part of the territory so ceded or relinquished, shall be fully reimbursed by the United States; and that one commissioner shall be appointed by Congress, one by this Commonwealth, and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State, which they shall judge to be comprised within the intent and meaning of the act of Congress of the tenth of October, one thousand seven hundred and eighty, respecting such expenses. That the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincent's, and the neighboring villages, who have professed themselves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by this State, shall be allowed and granted to the then Colonel (now General) George Rogers Clarke, and to the officers and soldiers of his regiment who marched with him when the posts of Kaskaskies and St. Vincent's were reduced, and to the officers and soldiers that have been since incorporated into the said regiment; to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as a majority of the officers shall choose; and to be afterwards divided among the said officers and soldiers, in due proportion, according to the laws of Virginia. That in case the quantity of good land on the southeast side of the Ohio, upon the waters of Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops upon continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops, in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the beforementioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever: *Provided*, That the trust hereby reposed in the delegates of this State shall not be executed, unless three of them, at least, are present in Congress."

And whereas the said General Assembly, by their resolution of June sixth, one thousand seven hundred and eighty-three, had constituted and appointed us, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, delegates to represent the said Commonwealth in Congress for one year, from the first Monday in November then next following, which resolution remains in full force: Now, therefore, know ye, that we, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, by virtue of the power and authority committed to us by the act of the

said General Assembly of Virginia, before recited, and in the name and for and on behalf of the said Commonwealth, do, by these presents, convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, Virginia inclusive, all right, title, and claim, as well of soil as of jurisdiction, which the said Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, to and for the uses and purposes, and on the conditions, of the said recited act.

In testimony whereof, we have hereunto subscribed our names and affixed our seals, in Congress, the first day of March, in the year of our Lord one thousand seven hundred and eighty-four, and of the independence of the United States the eighth.

TH. JEFFERSON, [L. S.]
S. HARDY, [L. S.]
ARTHUR LEE, [L. S.]
JAMES MONROE, [L. S.]

Signed, sealed, and delivered in presence of
CHA. THOMPSON,
HENRY REMSEN, jr.,
BEN. BANKSON, jr.

B 1.

AUDITOR'S OFFICE, *June* 22, 1837.

DEAR SIR: In reply to your note, I consider the name of an officer appearing on the *continental* army register in this office as having received a certificate for the balance of his full pay under the act of November session, 1781, as satisfactory proof that he was a *continental* officer. It is possible that, in some few instances, the names of officers of the *State line* may have been enrolled on the *continental* army register by mistake; but it is wholly improbable that the names of officers of *militia* can be found thereon, as such were not entitled to certificates under the act above referred to.

Yours, very respectfully,

JAS. E. HEATH, *Auditor.*

VESP. ELLIS, Esq.

EXECUTIVE DEPARTMENT,
Richmond, April 27, 1844.

I hereby certify that the above is a true copy of a paper on file in this department.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

B 2.

I do hereby certify that Captain James Craine was appointed an officer in the Virginia continental line, the 25th of November, one thousand seven hundred and seventy-six, and continued in actual service till the 25th of May, 1782. Given under my hand at Fredericksburg, the 13th of May, 1783.

P. MUHLENBERG, *B. G.*

[Endorsed.] It appears, from some papers in the council chamber, that Captain Craine was superseded; if so, he is not entitled to land. Perhaps Captain Craine can remove this objection.

THOS. MERIWETHER.

EXECUTIVE DEPARTMENT, *July* 6, 1843.

I hereby certify that the foregoing is a true transcript of a paper filed in the office of the Secretary of the Commonwealth; the note endorsed, to which Thos. Meriwether's name is subscribed, having been partially erased, though not made illegible, by black lines drawn through it.

TH. HOWARD, for
WM. H. RICHARDSON,
Secretary of the Commonwealth.

B 3.

January 4, 1777. Then received of Geo. Eskridge, ensign, the bounty of twenty dollars. I say received by me.

his
MARTIN x SEBASTIN.
mark
(Signed) WILLIAM CLARK.

NORTHUMBERLAND COUNTY, *sct:*

This day came before me, John George, and took the oath of a soldier to serve in the contin*al*tal army, under Lieutenant George Eskridge, for three years. Given under my hand, a justice of the peace for said county, this 24th of December, 1778.

WILLIAM NELMS.

This is to certify that it appears from a list in this office, of such officers and soldiers of the Virginia continental line, during the revolutionary war, as settled their accounts, and received certificates for the balance of their full pay, according to an act of Assembly passed the November session, 1781, that a certificate issued on the 10th day of April, 1787, in the name of George Eskridge, as lieutenant of infantry, for £131 5*s.* 6*d.*, which certificate appears to have been delivered to Thos. Carnal, and was given for services prior to the 1st of January, 1782, to wit: Pay as lieutenant from 1st January, 1777, to 14th September, 1778.

[NO SEAL OF OFFICE.] Given under my hand at the auditor's office, Richmond, this 18th day of January, 1838.

JAS. E. HEATH, *Auditor.*

[This shows that the settlement for depreciation of pay furnishes no just ground to decide at what time the service of an officer commenced or terminated.]

EXECUTIVE DEPARTMENT,
Richmond, August 2, 1842.

I certify that the foregoing are true copies of papers filed in my office.

WM. H. RICHARDSON,
Secretary of Commonwealth.

B 4.

I do certify that Lieutenant James Morton was appointed quartermaster to the fourth Virginia continental regiment, the 1st day of April, 1778, and continued quartermaster till the 1st day of January, 1782.

Given under my hand this 8th day of January, 1782.

CHS. SCOTT,
Brigadier General.

I do certify that Captain Mayo Carrington was appointed an assistant deputy quartermaster general to the Virginia line on continental establish-

ment, on the 10th day of December, 1779, and acted in that capacity till the 27th day of March, 1781; and that he likewise acted as quartermaster to General Woodford's brigade, from the 16th day of July to the 10th day of December, 1779, being appointed by General Woodford for that purpose.

Given under my hand this 14th day of January, 1783.

HENRY YOUNG,
Captain and late D. Q. M. Gen.

—

Adjutant William Robinson, formerly of the 9th Virginia regiment, commanded by myself, having appeared before the board of field officers, assembled here for the settling and arranging the line, and represented to them he was now, and had been for a long time past, in an ill state of health, it is the opinion of the board that he should retire until his health *was* fully confirmed. In consequence of which, I hereby give him leave of absence until his health is fully restored. And I do further certify that the said Robinson, as adjutant, being now on command until his return home, has a right to draw forage for one horse.

Given under my hand this 22d day of February, 1781, at Chesterfield court house.

O. TOWLES,
Lieutenant Colonel commanding 5th Virginia regiment.

—

I do hereby certify that Captain Abram Hite was appointed paymaster to the 8th Virginia regiment the 1st day of January, 1779, and continued to act as such till the reduction of Charlestown, the 12th May, 1780, and that no other paymaster has been appointed to the regiment since he was made a prisoner.

Given under my hand this 6th day of January, 1783.

JAMES WOOD,
Colonel Virginia line.

—

This is to certify that Lieutenant John Hackley was appointed paymaster to the 2d Virginia detachment in February, 1781.

Given under my hand this 11th of April, 1783.

JOHN GREEN,
Colonel 6th Virginia regiment.

—

I do certify that the Rev. David Griffith did actually serve as surgeon to the 3d Virginia regiment of continental troops, from the 28th day of February, 1776, to the 18th day of March, 1779.

G. WEEDON,
Brigadier General.

FREDERICKSBURG, *September* 25, 1780.

I do hereby certify that Lieutenant Joseph Blackwell, of the Virginia continental line, was appointed quartermaster to my regiment at Hudwell's Point, in the place of Lieutenant Basqueville, who resigned.

N. GIST, *Colonel.*

MAY 10, 1783.

RICHMOND, *May* 19, 1783.

I do hereby certify that Lieutenant Isaac Hite was appointed aid-de-camp to me on the 1st July, 1780, and acted in that station to the 1st January, 1782.

L. MUHLENBERG,
Brigadier General.

I do certify that Lieutenant Nicholas Taliaferro was appointed adjutant to the battalion under my command in Charlestown, the 24th January, 1780.

WILL. HETH, *Colonel.*

JUNE 19, 1783.

I do certify that Ensign Henry Dawson was appointed quartermaster, and acted as such, to my regiment, from the 5th March, 1780, to the 31st January, 1782, at which time he became supernumerary.

JNO. GIBSON,
Colonel of the late 7th Virginia regiment.

JUNE 12, 1783.

B 5.

Note of officers of the Virginia continental line who settled with State auditors for short services, yet were allowed bounty land by the Executive.

Letter A of settlements.

Richard Apperson, lieutenant and captain C. L., settled from January 1, 1777, to September 30, 1778—received, in 1807, 4,666⅔ acres of land.

David Arrill, captain, settled from January 1, 1777, to January 14, 1778—received, in 1785, 4,000 acres.

Robert Andrews, chaplain, settled from January 1, 1777, to June 20, 1777—received, in 1833, 6,000 acres.

Billy H. Avery, lieutenant and captain, settled from January 1, 1777, to June 1, 1778—received, in 1818, 4,000 acres.

Matthew Arbuckle, captain, settled from January 1, 1777, to October 1, 1778—received, in 1799, 4,000 acres.

Letter B.

James Berwick, lieutenant, settled from January 1, 1777, to May 28, 1778—received, in 1785, 2,666⅔ acres.

James Burton, lieutenant, settled from January 1, 1777, to December 23, 1778—received, in 1813, 2,666⅔ acres.

Francis Baykin, captain, settled from November 18, 1777, to October 3, 1778—received, in 1810, as major, 5,333⅓ acres.

Wood Boulding, lieutenant, settled from January 1, 1777, to December 1, 1777—received, in 1810, 2,666⅔ acres.

Otway Byrd, lieutenant colonel, settled from February 1, 1777, to July 15, 1778—received, in 1784, 6,000 acres, (by resolution of General Assembly.)

John Bell, lieutenant, settled from January 1, 1777, to September 30, 1778—received, in 1783, 2,666⅔ acres.

William Boyer, lieutenant, settled from January 1, 1777, to September 30, 1778—received, in 1785, 2,666⅔ acres; and in 1807, 778 acres additional.

John Baynham, lieutenant, settled from January 1, 1777, to October, 1777—received, in 1784, 2,666⅔ acres.

Abraham Bowman, lieutenant colonel and colonel 8th Virginia regiment, settled from January 1, 1777, to September 12, 1778—received, in 1810, 7,591⅓ acres, for a service of six years and ten months.

Robert Ballard, captain, major, and lieutenant colonel, settled from January 1, 1777, to July 15, 1779—received, in 1784, 6,000 acres of land.

William Berry, ensign, settled from January 8 to December 9, 1777—received, in 1812, 2,666⅔ acres.

Thomas Blackwell, captain, settled for one year's service—part of 1777 and part of 1778—received, in 1783, 4,000 acres; and in 1806, 1,333⅓ additional.

James Barnett, lieutenant, settled from January 1, 1777, to September 30, 1778—received, in 1809, 3,444 acres, for a service of seven years.

William Blackwell, captain, settled for one year's service—part of 1777 and part of 1778—received, in 1831, 4,000 acres.

Peter Bernard, captain, settled from January 1, 1777, to September 1, 1779—received 4,000 acres of land.

Michael Bowyer, captain, settled from January 1, 1777, to September 30, 1778—received, in 1784, 4,000 acres; and in 1809, 833 acres additional.

Charles Bradford, lieutenant, settled for the year 1780—received, in 1789, 2,666⅔ acres.

James Buxton, lieutenant, settled from January 1 to December, 1777—received bounty land (it is believed) a few years ago.

John Buchannon, lieutenant, settled from January 1 to October 15, 1777—received, in 1787, 2,666⅔ acres.

William B. Bunting, lieutenant, settled from January 1 to June 1, 1777—received, in 1807, 2,666⅔ acres.

Isaac Beal, captain and major, settled from January 1 to June 1, 1777—received, in 1823, 5,333⅓ acres of land.

Letter C.

William Christian, lieutenant, settled from January 1, 1777, to January 13, 1778—received, in 1824, 2,666⅔ acres.

Buller Claiborne, captain, settled from January 1 to July 25, 1777—received, in 1807, 5,333⅓ acres, for eight years.

Samuel Cobbs, ensign and lieutenant, settled from January 1, 1777, to October 1, 1778—received, in 1807, 3,630 acres, for eight years' service.

Thomas Custis, lieutenant, settled from January 1, 1777, to August 8, 1778—received, in 1807, 2,666⅔ acres.

Henry Conway, captain, settled from January 1, 1777, to March 12, 1779—received, in 1808, 4,666⅔ acres, for seven years.

John Cropper, captain, major, and lieutenant colonel, settled from January 1, 1777, to September, 1779—received bounty land, in June, 1783, and April, 1807, for a service of eight years.

Apollos Cooper, lieutenant, settled from January 1, 1777, to September 11, 1777—received, in 1787, 2,666⅔ acres.

Nicholas Carrall, lieutenant, settled from January 1, 1777, to September 15, 1778—received, in 1794, 2,666⅔ acres.

John Chilton, captain, settled from January 1, 1777, to September 11, 1777—received, in 1783, 4,000 acres.

Joseph Crockett, captain, major, &c., settled from January 1, 1777, to September 15, 1778—received, in 1783, 6,666⅔ acres; and in 1810, 2,443½ acres additional, for eight years and nine months.

Charles Cameron, lieutenant, settled from January 1, 1777, to January 2, 1778—received, in 1833, 2,666⅔ acres.

James Craig, lieutenant and captain, settled from January 1, 1777, to October, 1778—received, in 1783, 4,000 acres; and in 1810, 1,166 additional.

Pleasant Cocke, lieutenant, settled from January 1, 1777, to March 15, 1778—received, in 1784, 4,000 acres.

William Cherry, captain, settled from January 1, 1777, to September 1, 1778—received, in 1783, 4,000 acres; and in 1832, 1,000 additional.

EXECUTIVE DEPARTMENT,
Richmond, Virginia, April 27, 1844.

I hereby certify that the foregoing is a true copy of a paper on file in this department.

WM. H. RICHARDSON,
Secretary of Commonwealth.

B 6.

I, Henry Bedinger, of the county of Berkeley, and State of Virginia, aged eighty-four years, do certify that Thomas H. Luckett entered the army of the Revolution as a volunteer rifleman early in 1775; that we served together at the siege of Boston; that at the time the term of one year had expired, for which he had engaged, on the 10th of July, 1776,

said Thomas H. Luckett was commissioned a lieutenant in Colonel Hugh Stephenson's regiment of riflemen, to which I also belonged; that we were both captured at the surrender of Fort Washington, on York island, on the 16th day of November, 1776, and detained as prisoners of war to the 1st day of November, 1780, nearly four years; and I know he was entitled and rose to the rank of *captain* during his captivity, and before his being exchanged; that said Thomas H. Luckett, after being regularly exchanged, retired as a supernumerary officer, as did many others, subject to be called into the service; and that he never was called into service thereafter; and further, that said Thomas H. Luckett, while in active service, was active, efficient, and a good officer.

Given under my hand, this 14th day of October, 1837.

HENRY BEDINGER.

BERKELEY COUNTY, *Virginia, to wit:*

This 14th day of October, 1837, before me, William L. Boak, a justice of the peace for the said county, personally appeared Henry Bedinger, and made oath to the foregoing statement and certificate.

Sworn to before me, date last above mentioned.

WILLIAM L. BOAK.

EXECUTIVE DEPARTMENT,
Richmond, Va., April 27, 1844.

I hereby certify that the foregoing is a true copy of a paper on file in this department.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

THE STATE OF OHIO, }
Ross county, Chillicothe, } *ss:*

Be it remembered that I, Edward Fitzgerald, of the town of Chillicothe, in the county of Ross aforesaid, now about sixty-nine years of age, and formerly a resident of the county of Frederick, in the State of Maryland, a few miles from Noland's ferry, in the county of Loudon, in the State of Virginia, after being duly sworn, depose and say: That I was well acquainted with Major Thomas H. Luckett, about the year 1781; that said Luckett returned into the county of Loudon aforesaid, from his imprisonment, (having been, as I understood, taken a prisoner at Long Island) about that time, and afterwards knew him well up to the time of his death, about the year 1786; during which time, from 1781 to 1786, he resided in said Loudon county, I was informed and believe he was an officer in the revolutionary service. I further state, that Otho H. W. Luckett, now of said town of Chillicothe, is the eldest son of said Major Thomas H. Luckett.

EDWARD FITZGERALD.

Sworn to and subscribed before me, this 11th day of August, A. D. 1837.

J. L. TAYLOR, *Notary Public*

I, Catharine Bentley, of Highland county, in the State of Ohio, being now about sixty-seven years of age, and duly sworn, do depose and say: That I was well acquainted with Major Thomas H. Luckett, formerly of Loudon county, in the State of Virginia, now deceased; that I resided about the time of his death within about half a mile of said Thomas H. Luckett's residence, in said Loudon county; and further, that Otho H. W. Luckett, now of Chillicothe, in the State of Ohio, is his eldest son. I further state that he died in said Loudon county, and I was at Mrs. Luckett's house during her widowhood.

CATHARINE BENTLEY.

Sworn to and subscribed before me, this 11th day of August, 1837.

J. L. TAYLOR, *Notary Public.*

THE STATE OF OHIO, }
Ross county, town of Chillicothe, } *ss:*

I, John L. Taylor, a notary public, in and for said county, duly commissioned and qualified, and dwelling in the town of Chillicothe, do hereby certify that the within named Edward Fitzgerald and Catharine Bentley personally came before me, and, being duly cautioned and sworn, made and subscribed the within affidavits.

In testimony whereof, I, the said John L. Taylor, notary public, as aforesaid, have hereunto set my hand and official seal, this 11th day of August, A. D. 1837.

[L. S.]

J. L. TAYLOR, *Notary Public.*

EXECUTIVE DEPARTMENT,
Richmond, Va., April 27, 1844.

I hereby certify that the foregoing are true copies of papers on file in this department.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

ERRATA.

On page 127, (reference to the appendix,) for B 2, read B 4.
On page 147, (appendix,) for No. 1, read D.

B 1.

AUDITOR'S OFFICE, *June* 22, 1837.

DEAR SIR: In reply to your note, I consider the name of an officer appearing on the *continental* army register in this office as having received a certificate for the balance of his full pay under the act of November session, 1781, as satisfactory proof that he was a *continental* officer. It is possible that, in some few instances, the names of officers of the *State line* may have been enrolled on the *continental* army register by mistake; but it is wholly improbable that the names of officers of *militia* can be found thereon, as such were not entitled to certificates under the act above referred to.

Yours, very respectfully,

JAS. E. HEATH, *Auditor.*

VESP. ELLIS, Esq.

EXECUTIVE DEPARTMENT,
Richmond, April 27, 1844.

I hereby certify that the above is a true copy of a paper on file in this department.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

B 2.

I do hereby certify that Captain James Craine was appointed an officer in the Virginia continental line, the 25th of November, one thousand seven hundred and seventy six, and continued in actual service till the 25th of May, 1782. Given under my hand at Fredericksburg, the 13th of May, 1783.

P. MUHLENBERG, *B. G.*

[Endorsed.] It appears, from some papers in the council chamber, that Captain Craine was superseded; if so, he is not entitled to land. Perhaps Captain Craine can remove this objection.

THOS. MERIWETHER.

EXECUTIVE DEPARTMENT, *July* 6, 1843.

I hereby certify that the foregoing is a true transcript of a paper filed in the office of the Secretary of the Commonwealth; the note endorsed, to which Thos. Meriwether's name is subscribed, having been partially erased, though not made illegible, by black lines drawn through it.

TH. HOWARD, for
WM. H. RICHARDSON,
Secretary of the Commonwealth.

B 3.

January 4, 1777. Then received of Geo. Eskridge, ensign, the bounty of twenty dollars. I say received by me.

his
MARTIN x SEBASTIN.
mark

(Signed) WILLIAM CLARK.

NORTHUMBERLAND COUNTY, *sct:*

This day came before me, John George, and took the oath of a soldier to serve in the contin*al*tal army, under Lieutenant George Eskridge, for three years. Given under my hand, a justice of the peace for said county, this 24th of December, 1778.

WILLIAM NELMS.

This is to certify that it appears from a list in this office, of such officers and soldiers of the Virginia continental line, during the revolutionary war, as settled their accounts, and received certificates for the balance of their full pay, according to an act of Assembly passed the November session, 1781, that a certificate issued on the 10th day of April, 1787, in the name of George Eskridge, as lieutenant of infantry, for £131 5*s.* 6*d.*, which certificate appears to have been delivered to Thos. Carnal, and was given for services prior to the 1st of January, 1782, to wit: Pay as lieutenant from 1st January, 1777, to 14th September, 1778.

[NO SEAL OF OFFICE.] Given under my hand at the auditor's office, Richmond, this 18th day of January, 1838.

JAS. E. HEATH, *Auditor.*

[This shows that the settlement for depreciation of pay furnishes no just ground to decide at what time the service of an officer commenced or terminated.]

EXECUTIVE DEPARTMENT,
Richmond, August 2, 1842.

I certify that the foregoing are true copies of papers filed in my office.

WM. H. RICHARDSON,
Secretary of Commonwealth.

B 4.

I do certify that Lieutenant James Morton was appointed quartermaster to the fourth Virginia continental regiment, the 1st day of April, 1778, and continued quartermaster till the 1st day of January, 1782.

Given under my hand this 8th day of January, 1782.

CHS. SCOTT,
Brigadier General.

I do certify that Captain Mayo Carrington was appointed an assistant deputy quartermaster general to the Virginia line on continental establish-

ment, on the 10th day of December, 1779, and acted in that capacity till the 27th day of March, 1781; and that he likewise acted as quartermaster to General Woodford's brigade, from the 16th day of July to the 10th day of December, 1779, being appointed by General Woodford for that purpose.

Given under my hand this 14th day of January, 1783.

HENRY YOUNG,
Captain and late D. Q. M. Gen.

—

Adjutant William Robinson, formerly of the 9th Virginia regiment, commanded by myself, having appeared before the board of field officers, assembled here for the settling and arranging the line, and represented to them he was now, and had been for a long time past, in an ill state of health, it is the opinion of the board that he should retire until his health *was* fully confirmed. In consequence of which, I hereby give him leave of absence until his health is fully restored. And I do further certify that the said Robinson, as adjutant, being now on command until his return home, has a right to draw forage for one horse.

Given under my hand this 22d day of February, 1781, at Chesterfield court house.

O. TOWLES,
Lieutenant Colonel commanding 5th Virginia regiment.

—

I do hereby certify that Captain Abram Hite was appointed paymaster to the 8th Virginia regiment the 1st day of January, 1779, and continued to act as such till the reduction of Charlestown, the 12th May, 1780, and that no other paymaster has been appointed to the regiment since he was made a prisoner.

Given under my hand this 6th day of January, 1783.

JAMES WOOD,
Colonel Virginia line.

—

This is to certify that Lieutenant John Hackley was appointed paymaster to the 2d Virginia detachment in February, 1781.

Given under my hand this 11th of April, 1783.

JOHN GREEN,
Colonel 6th Virginia regiment.

—

I do certify that the Rev. David Griffith did actually serve as surgeon to the 3d Virginia regiment of continental troops, from the 28th day of February, 1776, to the 18th day of March, 1779.

G. WEEDON,
Brigadier General.

FREDERICKSBURG, *September* 25, 1780.

I do hereby certify that Lieutenant Joseph Blackwell, of the Virginia continental line was appointed quartermaster to my regiment at Hudwell's Point, in the place of Lieutenant Basqueville, who resigned.

N. GIST, *Colonel.*

MAY 10, 1783.

RICHMOND, *May* 19, 1783.

I do hereby certify that Lieutenant Isaac Hite was appointed aid-de-camp to me on the 1st July, 1780, and acted in that station to the 1st January, 1782.

L. MUHLENBERG,
Brigadier General.

I do certify that Lieutenant Nicholas Taliaferro was appointed adjutant to the battalion under my command in Charlestown, the 24th January, 1780.

WILL. HETH, *Colonel.*

JUNE 19, 1783.

I do certify that Ensign Henry Dawson was appointed quartermaster, and acted as such, to my regiment, from the 5th March, 1780, to the 31st January, 1782, at which time he became supernumerary.

JNO. GIBSON,
Colonel of the late 7th Virginia regiment.

JUNE 12, 1783.

B 5.

Note of officers of the Virginia continental line who settled with State auditors for short services, yet were allowed bounty land by the Executive.

Letter A of settlements.

Richard Apperson, lieutenant and captain C. L., settled from January 1, 1777, to September 30, 1778—received, in 1807, 4,666⅔ acres of land.

David Arrill, captain, settled from January 1, 1777, to January 14, 1778—received, in 1785, 4,000 acres.

Robert Andrews, chaplain, settled from January 1, 1777, to June 20, 1777—received, in 1833, 6,000 acres.

Billy H. Avery, lieutenant and captain, settled from January 1, 1777, to June 1, 1778—received, in 1818, 4,000 acres.

Matthew Arbuckle, captain, settled from January 1, 1777, to October 1, 1778—received, in 1799, 4,000 acres.

Letter B.

James Berwick, lieutenant, settled from January 1, 1777, to May 28, 1778—received, in 1785, 2,666⅔ acres.

James Burton, lieutenant, settled from January 1, 1777, to December 23, 1778—received, in 1813, 2,666⅔ acres.

Francis Baykin, captain, settled from November 18, 1777, to October 3, 1778—received, in 1810, as major, 5,333⅓ acres.

Wood Boulding, lieutenant, settled from January 1, 1777, to December 1, 1777—received, in 1810, 2,666⅔ acres.

Otway Byrd, lieutenant colonel, settled from February 1, 1777, to July 15, 1778—received, in 1784, 6,000 acres, (by resolution of General Assembly.)

John Bell, lieutenant, settled from January 1, 1777, to September 30, 1778—received, in 1783, 2,666⅔ acres.

William Boyer, lieutenant, settled from January 1, 1777, to September 30, 1778—received, in 1785, 2,666⅔ acres; and in 1807, 778 acres additional.

John Baynham, lieutenant, settled from January 1, 1777, to October, 1777—received, in 1784, 2,666⅔ acres.

Abraham Bowman, lieutenant colonel and colonel 8th Virginia regiment, settled from January 1, 1777, to September 12, 1778—received, in 1810, 7,591⅔ acres, for a service of six years and ten months.

Robert Ballard, captain, major, and lieutenant colonel, settled from January 1, 1777, to July 15, 1779—received, in 1784, 6,000 acres of land.

William Berry, ensign, settled from January 8 to December 9, 1777—received, in 1812, 2,666⅔ acres.

Thomas Blackwell, captain, settled for one year's service—part of 1777 and part of 1778—received, in 1783, 4,000 acres; and in 1806, 1,333⅓ additional.

James Barnett, lieutenant, settled from January 1, 1777, to September 30, 1778—received, in 1809, 3,444 acres, for a service of seven years.

William Blackwell, captain, settled for one year's service—part of 1777 and part of 1778—received, in 1831, 4,000 acres.

Peter Bernard, captain, settled from January 1, 1777, to September 1, 1779—received 4,000 acres of land.

Michael Bowyer, captain, settled from January 1, 1777, to September 30, 1778—received, in 1784, 4,000 acres; and in 1809, 833 acres additional.

Charles Bradford, lieutenant, settled for the year 1780—received, in 1789, 2,666⅔ acres.

James Buxton, lieutenant, settled from January 1 to December, 1777—received bounty land (it is believed) a few years ago.

John Buchannon, lieutenant, settled from January 1 to October 15, 1777—received, in 1787, 2,666⅔ acres.

William B. Bunting, lieutenant, settled from January 1 to June 1, 1777—received, in 1807, 2,666⅔ acres.

Isaac Beal, captain and major, settled from January 1 to June 1, 1777—received, in 1823, 5,333⅓ acres of land.

Letter C.

William Christian, lieutenant, settled from January 1, 1777, to January 13, 1778—received, in 1824, 2,666⅔ acres.

Buller Claiborne, captain, settled from January 1 to July 25, 1777—received, in 1807, 5,333⅓ acres, for eight years.

Samuel Cobbs, ensign and lieutenant, settled from January 1, 1777, to October 1, 1778—received, in 1807, 3,630 acres, for eight years' service.

Thomas Custis, lieutenant, settled from January 1, 1777, to August 8, 1778—received, in 1807, 2,666⅔ acres.

Henry Conway, captain, settled from January 1, 1777, to March 12, 1779—received, in 1808, 4,666⅔ acres, for seven years.

John Cropper, captain, major, and lieutenant colonel, settled from January 1, 1777, to September, 1779—received bounty land, in June, 1783, and April, 1807, for a service of eight years.

Apollos Cooper, lieutenant, settled from January 1, 1777, to September 11, 1777—received, in 1787, 2,666⅔ acres.

Nicholas Currall, lieutenant, settled from January 1, 1777, to September 15, 1778—received, in 1794, 2,666⅔ acres.

John Chilton, captain, settled from January 1, 1777, to September 11, 1777—received, in 1783, 4,000 acres.

Joseph Crockett, captain, major, &c., settled from January 1, 1777, to September 15, 1778—received, in 1783, 6,666⅔ acres; and in 1810, 2,443½ acres additional, for eight years and nine months.

Charles Cameron, lieutenant, settled from January 1, 1777, to January 2, 1778—received, in 1833, 2,666⅔ acres.

James Craig, lieutenant and captain, settled from January 1, 1777, to October, 1778—received, in 1783, 4,000 acres; and in 1810, 1,166 additional.

Pleasant Cocke, lieutenant, settled from January 1, 1777, to March 15, 1778—received, in 1784, 4,000 acres.

William Cherry, captain, settled from January 1, 1777, to September 1, 1778—received, in 1783, 4,000 acres; and in 1832, 1,000 additional.

—

EXECUTIVE DEPARTMENT,
Richmond, Virginia, April 27, 1844.

I hereby certify that the foregoing is a true copy of a paper on file in this department.

WM. H. RICHARDSON,
Secretary of Commonwealth.

B 6.

I, Henry Bedinger, of the county of Berkeley, and State of Virginia, aged eighty-four years, do certify that Thomas H. Luckett entered the army of the Revolution as a volunteer rifleman early in 1775; that we served together at the siege of Boston; that at the time the term of one year had expired, for which he had engaged, on the 10th of July, 1776,

said Thomas H. Luckett was commissioned a lieutenant in Colonel Hugh Stephenson's regiment of riflemen, to which I also belonged; that we were both captured at the surrender of Fort Washington, on York island, on the 16th day of November, 1776, and detained as prisoners of war to the 1st day of November, 1780, nearly four years; and I know he was entitled and rose to the rank of *captain* during his captivity, and before his being exchanged; that said Thomas H. Luckett, after being regularly exchanged, retired as a supernumerary officer, as did many others, subject to be called into the service; and that he never was called into service thereafter; and further, that said Thomas H. Luckett, while in active service, was active, efficient, and a good officer.

Given under my hand, this 14th day of October, 1837.

HENRY BEDINGER.

BERKELEY COUNTY, *Virginia, to wit:*

This 14th day of October, 1837, before me, William L. Boak, a justice of the peace for the said county, personally appeared Henry Bedinger, and made oath to the foregoing statement and certificate.

Sworn to before me, date last above mentioned.

WILLIAM L. BOAK.

EXECUTIVE DEPARTMENT,
Richmond, Va., April 27, 1844.

I hereby certify that the foregoing is a true copy of a paper on file in this department.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

THE STATE OF OHIO, }
Ross county, Chillicothe, } *ss:*

Be it remembered that I, Edward Fitzgerald, of the town of Chillicothe, in the county of Ross aforesaid, now about sixty-nine years of age, and formerly a resident of the county of Frederick, in the State of Maryland, a few miles from Noland's ferry, in the county of Loudon, in the State of Virginia, after being duly sworn, depose and say: That I was well acquainted with Major Thomas H. Luckett, about the year 1781; that said Luckett returned into the county of Loudon aforesaid, from his imprisonment, (having been, as I understood, taken a prisoner at Long Island) about that time, and afterwards knew him well up to the time of his death, about the year 1786; during which time, from 1781 to 1786, he resided in said Loudon county, I was informed and believe he was an officer in the revolutionary service. I further state, that Otho H. W. Luckett, now of said town of Chillicothe, is the eldest son of said Major Thomas H. Luckett.

EDWARD FITZGERALD.

Sworn to and subscribed before me, this 11th day of August, A. D. 1837.

J. L. TAYLOR, *Notary Public*

I, Catharine Bentley, of Highland county, in the State of Ohio, being now about sixty-seven years of age, and duly sworn, do depose and say: That I was well acquainted with Major Thomas H. Luckett, formerly of Loudon county, in the State of Virginia, now deceased; that I resided about the time of his death within about half a mile of said Thomas H. Luckett's residence, in said Loudon county; and further, that Otho H. W. Luckett, now of Chillicothe, in the State of Ohio, is his eldest son. I further state that he died in said Loudon county, and I was at Mrs. Luckett's house during her widowhood.

CATHARINE BENTLEY.

Sworn to and subscribed before me, this 11th day of August, 1837.

J. L. TAYLOR, *Notary Public.*

THE STATE OF OHIO, }
Ross county, town of Chillicothe, } *ss:*

I, John L. Taylor, a notary public, in and for said county, duly commissioned and qualified, and dwelling in the town of Chillicothe, do hereby certify that the within named Edward Fitzgerald and Catharine Bentley personally came before me, and, being duly cautioned and sworn, made and subscribed the within affidavits.

In testimony whereof, I, the said John L. Taylor, notary public, as aforesaid, have hereunto set my hand and official seal, this 11th day of August, A. D. 1837. [L. S.]

J. L. TAYLOR, *Notary Public.*

EXECUTIVE DEPARTMENT,
Richmond, Va., April 27, 1844.

I hereby certify that the foregoing are true copies of papers on file in this department.

WM. H. RICHARDSON,
Secretary of the Commonwealth.

ERRATA.

On page 127, (reference to the appendix,) for B 2, read B 4.
On page 147, (appendix,) for No. 1, read D.